SENATE, No. 2980

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED OCTOBER 8, 2020

Sponsored by:
Senator NELLIE POU
District 35 (Bergen and Passaic)
Senator NILSA I. CRUZ-PEREZ
District 5 (Camden and Gloucester)

Co-Sponsored by:
Senators Bateman, T.Kean, Oroho and O'Scanlon

SYNOPSIS

Concerns certain economic activity.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 10/29/2020)

AN ACT concerning certain economic activity and supplementing chapter 1 of Title 33 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. Notwithstanding any law, rule, regulation, ordinance, or best management practice to the contrary that sets forth a time limitation for the erection of certain temporary structures on commercial farms, an open or enclosed canopy or tent lawfully erected during the coronavirus disease 2019 (COVID-19) emergency on a commercial farm in accordance with the standards for on-farm direct marketing facilities, activities, and events adopted by the committee pursuant to P.L.1983, c.31 (C.4:1C-1 et seq.) may remain in place until the resumption, pursuant to an Executive Order issued by the Governor, of indoor dining without capacity limitations or December 31, 2020, whichever is later.

A canopy or tent remaining in place pursuant to this section shall:

(1) comply with all other standards for on-farm direct marketing facilities, activities, and events adopted by the committee pursuant to P.L.1983, c.31 (C.4:1C-1 et seq.); and

(2) be immediately removed on the date indoor dining resumes without capacity restrictions pursuant to an Executive Order issued by the Governor, or December 31, 2020, whichever is later.

b. As used in this section:

"Commercial farm" means the same as that term is defined in section 3 of P.L.1983, c.31 (C.4:1C-3).

"Committee" means the State Agriculture Development Committee established pursuant to section 4 of P.L.1983, c.31 (C.4:1C-4).

2. a. As used in this section:

"Business or commercial entity" shall mean any retail business, or a bar, restaurant, brewery, winery, or any other business entity where food or alcoholic beverages, or both, are offered for sale and consumption on the premises.

"Temporary space" shall mean any space on a sidewalk. on a street or road, or in a parking lot, on which a business or commercial entity has lawfully operated during the COVID-19 public health emergency or state of emergency in order to expand their business or commercial premises.

"Temporary structure" shall mean and include an open or enclosed canopy or tent, lawfully erected by a business or commercial entity during the COVID-19 public health emergency or state of emergency in order to expand that entity's business or commercial premises.

b. Notwithstanding the provisions of any law, rule, regulation, or ordinance to the contrary that sets forth a time limitation for the erection and use of a temporary structure, or the use of a temporary space, by a business or commercial entity, a temporary structure or temporary space may remain in place until the resumption, pursuant to an Executive Order issued by the Governor, of indoor occupancy or dining without capacity limitations, subject to the provisions of subsection c. of this section.

A temporary structure or temporary space subject to the provisions of this section shall be subject to any ordinance of the municipality in which the temporary structure or temporary space is located that imposes safety requirements on the use of such structures or spaces, including but not limited to exit signs, fire extinguishers, and other such public safety requirements, but not related to the duration of the erection of the temporary structure or temporary space.

c. Notwithstanding the provisions of subsection b. of this section, beginning on December 1, 2020, and until the resumption of indoor occupancy or dining without capacity limitations pursuant to an executive order issued by the Governor, the governing body of a municipality, once every 90 days, may review the location of each temporary structure or temporary space located in the municipality, and may order the removal of a temporary structure or temporary space if it is deemed to be a nuisance, interferes with a planned use of the location by the municipality, or if a construction project planned for the area in which the temporary structure or temporary space is located has received approval to begin construction. If the governing body orders the removal of a temporary structure or temporary space pursuant to this subsection, it shall provide reasonable notice of the decision to remove the temporary structure or temporary space to the business or commercial entity, and shall also provide assistance to the business or commercial entity in relocating the temporary structure or temporary space.

3. Notwithstanding the provisions of Special Ruling 2020-10, issued by the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety on June 3, 2020, the term of a COVID-19 Expansion Permit issued pursuant to that special ruling shall remain in effect until the date of expiration, termination, or rescission of any executive or administrative order issued by the Governor establishing coronavirus-related occupancy or customer seating restrictions applicable to licensed premises.

4. a. The Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety may, subject to rules and regulations, issue to the holder of a limited brewery license, restricted brewery license, craft distillery license, plenary winery license, farm winery license, or cidery and meadery license,

as established pursuant to R.S.33:1-10, a daily or annual permit to sell any of the licensee's products at a seasonal farm market for consumption off the premises of the seasonal farm market. The director shall issue a separate permit for each seasonal farm market at which the licensee's products are intended to be sold. The director shall not issue a permit pursuant to this section for use in connection with a roadside farm stand.

b. Subject to rules and regulations, a licensee issued a permit pursuant to this section may:

(1) transport the licensee's products for the purpose of selling them at a seasonal farm market; and

(2) offer samples for sampling purposes to persons of the legal age to consume alcoholic beverages in the amounts authorized pursuant to R.S.33:1-10 during each day the seasonal farm market is operating.

c. A daily permit shall be valid for the hours a seasonal farm market is open during the 24-hour period for which the daily permit is issued. An annual permit shall be valid for one year from the date of issuance. The director may renew a permit provided the permit holder continues to hold a limited brewery license, restricted brewery license, craft distillery license, plenary winery license, farm winery license, or cidery and meadery license, as applicable.

d. The director may establish a fee not to exceed $25 for a daily permit and not to exceed $75 for an annual permit for the issuance and renewal of a permit under this section.

e. As used in this section, "roadside farm stand" means a location owned by a single farmer or producer at which the farmer or producer sells agricultural products only from the farmer's or producer's farm directly to consumers.

5. Sections 1, 2, and 3 of this act shall take effect immediately, and section 4 of this act shall take effect on the first day of the second month next following enactment.

STATEMENT

This bill addresses different types of economic activity in the State, with the intent to improving the economic outlook, and opportunities, for businesses and agricultural concerns in the State.

The bill would allow open or enclosed canopies or tents lawfully erected on commercial farms to remain in place during the COVID-19 emergency until indoor dining resumes in the State without capacity restrictions or December 31, 2020, whichever is later, and would also allow a temporary structure or temporary space that a business or commercial entity has erected and is using for their business activity until the resumption, pursuant to an Executive Order issued by the Governor, of indoor occupancy or dining

without capacity limitations. By extending the use of these canopies, tents, temporary structures and temporary spaces, businesses and commercial farms will be able to continue to be open for business and to serve the public well into the fall and winter months. • Beginning on December 1, 2020, and until the resumption of indoor occupancy or dining without capacity limitations pursuant to an executive order issued by the Governor, the bill would allow the governing body of a municipality, once every 90 days, to review the location of each temporary structure or temporary space erected in the municipality, and to order the removal of a temporary structure or temporary space if it is deemed to be a nuisance, interferes with a planned use of the location by the municipality, or if a construction project planned for the area in which the temporary structure or temporary space is located has received approval to begin construction. If a governing body orders the removal of a temporary structure or temporary space pursuant to the bill, it would be required to provide reasonable notice of the decision and provide assistance to the business or commercial entity in relocating the temporary structure or temporary space.

The bill would also extend the duration of COVID-19 Expansion Permits issued by the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety pursuant to Special Ruling 2020-10. Pursuant to that Special Ruling, those permits will expire on November 30, 2020. This bill would extend the duration of those permits until the date of expiration, termination, or rescission of any executive or administrative order issued by the Governor establishing coronavirus-related occupancy or customer seating restrictions applicable to licensed premises. Extending these permits will allow bars and restaurants to continue to serve the public in spaces outside of their premises well into the fall and winter months.

The bill would also allow the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety to issue to the holder of a limited brewery license, restricted brewery license, craft distillery license, plenary winery license, farm winery license, or cidery and meadery license, a daily or annual permit to sell any of the licensee’s products at a seasonal farm market for consumption off the premises of the seasonal farm market. The bill would require the director to issue a separate permit for each seasonal farm market at which the licensee’s products are intended to be sold. Creating these permits will provide these businesses with additional opportunities to sell their products and increased revenue from those sales.