SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3316

STATE OF NEW JERSEY

DATED: MAY 6, 2021

The Senate Community and Urban Affairs Committee reports favorably a Senate Committee Substitute for Senate Bill No. 3316.

This committee substitute would establish Statewide standards and rules for the use of heaters in tents by food and beverage establishments during the COVID-19 public health emergency.

This committee substitute would require the owner or operator of a food or beverage establishment that intends to offer service to customers under heated tents during the COVID-19 public health emergency to file an application with the fire official of the municipality in which the establishment is located. The fire official would approve the application if, based on a review of the application and evidence submitted by the owner or operator, the fire official determines that the equipment to be used, and the plan for the use of a heated tent, comply with the requirements set forth in the committee substitute. The substitute defines "food or beverage establishment" as a restaurant, cafeteria, dining establishment and food court, with or without a liquor license, as well as a bar, and any other holder of a liquor license with retail consumption privileges.

The substitute provides that each tent, and heating source intended to be used inside the tent, must meet the following standards:

(1) A tent must be constructed of fire-retardant material;

(2) No cooking or warming of food may be performed under a tent;

(3) At least one, easily accessible, fire extinguisher must be inside the tent at all times;

(4) There must be a minimum clearance of five feet between an open flame and any combustible material;

(5) All heating units must be placed on a stable base;

(6) If an electric heater is to be used, there must be a minimum clearance of five feet between the heater and any combustible material;

(7) If a generator is to be used as a power source for a heater, the generator may not be located within the tent or within five feet of the tent, and shall not be fueled if it is hot; and

(8) An enclosed tent having heating devices inside must have prominently marked entrances and exits.

Additionally, the substitute would requires the owner or operator of a food or beverage establishment to take the following actions to ensure the safe use of heaters inside a tent:

(1) Ensure the safe storage of propane or other fuels at all times;

(2) Ensure that heaters and fuels are unplugged or turned off, and safely stored overnight; and

(3) Provide, or arrange for, training for all employees on how to install fuel or fuel sources and how to detect a fuel leak.

The substitute would also require the owner or operator of a food or beverage establishment that has located a tent having a heat source on a public street or in a public parking lot to take reasonable precautions to prevent a vehicle impact with the tent.

Under the substitute, the Division of Fire Safety in the Department of Community Affairs would promulgate emergency rules and regulations as necessary to effectuate the provisions of the substitute, and allows the division to readopt or amend those emergency rules.

The provisions of the substitute would expire on either the date of expiration, termination, or rescission of any and all executive or administrative orders issued by the Governor or Commissioner of Health establishing coronavirus-related occupancy or customer seating restrictions applicable to food and beverage establishments, or the first day of the seventh month following the date on which the Governor declares that the state of emergency has ended, whichever date occurs later.

It is anticipated that these requirements and standards will allow restaurants to continue to serve patrons through the cold winter and early spring months.

As reported by the committee, this Senate Committee Substitute for Senate Bill No. 3316 is identical to Assembly Bill No. 5135 (ACS), which also was reported by the committee.