

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3316

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED MAY 6, 2021

Sponsored by:

Senator NILSA I. CRUZ-PEREZ
District 5 (Camden and Gloucester)
Senator ANTHONY M. BUCCO
District 25 (Morris and Somerset)

Co-Sponsored by:

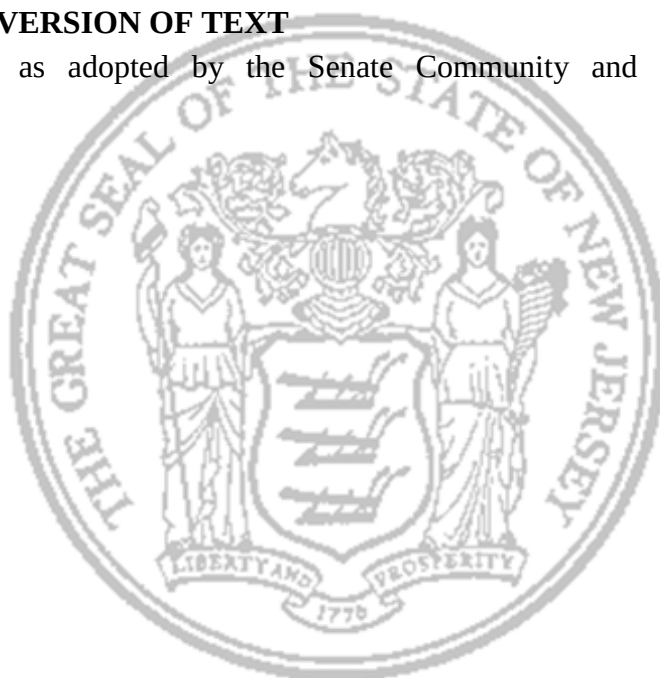
Senators Holzapfel and Gopal

SYNOPSIS

Allows continued use of heaters and tents by food or beverage establishments under certain circumstances during coronavirus disease 2019 pandemic.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Community and Urban Affairs Committee.



1 **AN ACT** establishing Statewide standards for the use of heaters and
2 tents by food and beverage establishments during the COVID-19
3 public health emergency.
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. As used in this act, “food or beverage establishment” means
9 and includes a restaurant, cafeteria, dining establishment and food
10 court, with or without a liquor license, as well as a bar, and any
11 other holder of a liquor license with retail consumption privileges.
12

13 2. During the period in which the State’s public health
14 emergency in response to the COVID-19 pandemic is in effect,
15 initially declared by the Governor pursuant to Executive Order No.
16 103 of 2020 and subsequently extended, the standards and
17 requirements for the use of tents and heaters by food or beverage
18 establishments established in this act shall be in effect. The
19 standards and requirements shall be applicable to the use by the
20 owner or operator of a food or beverage establishment intending to
21 use a heat source inside an enclosed, outdoor temporary dining tent.
22 A municipality shall not establish and enforce any standards or
23 requirements that are more restrictive than the standards established
24 in this act; however, a municipality may establish or enforce less-
25 restrictive, or alternative, standards than those established in this act
26 only if those standards adequately and effectively protect the health
27 and safety of patrons and employees of food or beverage
28 establishments and the general public.
29

30 3. The owner or operator of a food or beverage establishment
31 that intends to offer service to customers under heated outdoor
32 temporary dining tents during the COVID-19 pandemic public
33 health emergency shall file an application with the fire official of
34 the municipality in which the food or beverage establishment is
35 located. No municipality shall charge a fee to the owner or operator
36 of a food or beverage establishment related to such an application.
37 The fire official shall approve the application after a review of the
38 application and evidence from the owner or operator of the food or
39 beverage establishment that the equipment intended to be used, and
40 the plan for the use of a heated tent comply with the requirements
41 of this act.
42

43 4. Each outdoor temporary dining tent, and heating source
44 intended to be used inside the tent, shall meet the following
45 standards:

46 a. A tent shall be constructed of fire-retardant material, and
47 documentation attesting to this standard shall be submitted with the
48 application required in section 3 of this act;

- 1 b. No cooking or warming of food shall be performed under a
2 tent;
- 3 c. At least one fire extinguisher shall be present inside the tent
4 at all times, and shall be placed in an area that is easily accessible;
- 5 d. There shall be a minimum clearance of five feet between an
6 open flame and any combustible material;
- 7 e. All heating units shall be placed on a stable base;
- 8 f. If an electric heater is to be used, there shall be a minimum
9 clearance of five feet between the heater and any combustible
10 material;
- 11 g. If a generator is to be used as a power source for a heater,
12 the generator shall not be located within the tent or within five feet
13 of the tent, and shall not be refueled if the generator is hot; and
- 14 h. An enclosed tent with heating devices inside shall have
15 prominently marked entrances and exits.
16
- 17 5. In addition to the standards set forth in section 4 of this act,
18 the owner or operator of a food or beverage establishment shall be
19 responsible for taking the following actions to ensure the safe use of
20 heaters inside tents during the period that this act is in effect:
 - 21 a. Ensuring the safe storage of propane or other fuels at all
22 times;
 - 23 b. Ensuring that heaters and fuels are unplugged or turned off,
24 and safely stored overnight; and
 - 25 c. Providing, or arranging for, training for all employees on
26 how to install fuel or fuel sources, and how to detect a fuel leak.
27
- 28 6. In addition to the standards set forth in section 4 of this act
29 and the safety requirements for owners and operators of food or
30 beverage establishments required in section 5 of this act, if a food
31 or beverage establishment has located a tent having a heat source on
32 a public street or in a public parking lot and there is a substantial
33 possibility that a vehicle may impact the tent, the owner or operator
34 of the establishment shall take reasonable precautions to prevent a
35 vehicle impact with the tent, including but not limited to the
36 installation of a vehicle impact protection system around the
37 perimeter of the tent.
38
- 39 7. The Division of Fire Safety in the Department of
40 Community Affairs shall, within 14 days of the effective date of
41 this act, promulgate emergency rules and regulations as necessary
42 to effectuate the provisions of this act. The Division of Fire Safety
43 in the Department of Community Affairs shall readopt or amend the
44 emergency rules and regulations pursuant to the "Administrative
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
46
- 47 8. This act shall take effect immediately and shall expire on the
48 later of:

- 1 (1) the date of expiration, termination, or rescission of any and
- 2 all executive or administrative orders issued by the Governor or
- 3 Commissioner of Health establishing coronavirus-related occupancy
- 4 or customer seating restrictions applicable to for food or beverage
- 5 establishments, or
- 6 (2) the first day of the seventh month following the date on
- 7 which the Governor declares that the state of emergency has ended.