

[First Reprint]

SENATE, No. 3374

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 21, 2021

Sponsored by:

Senator NILSA I. CRUZ-PEREZ

District 5 (Camden and Gloucester)

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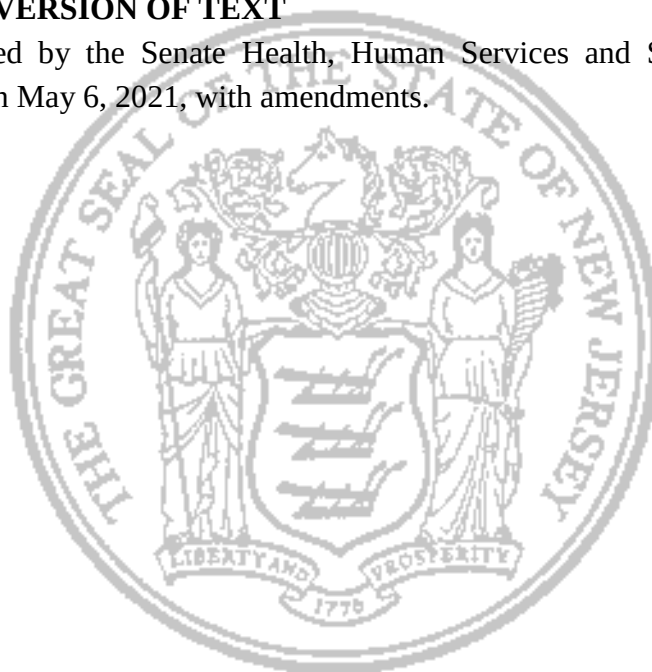
Senators Holzapfel and Gopal

SYNOPSIS

Expands indoor capacity for food and dining establishments and banquet and wedding venues under certain circumstances during coronavirus disease 2019 pandemic.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on May 6, 2021, with amendments.



(Sponsorship Updated As Of: 3/4/2021)

1 AN ACT concerning indoor ¹**consumption of food or beverages**
 2 capacity for food and dining establishments and banquet and
 3 wedding venues¹ during ¹**the public health emergency declared in**
 4 **response to**¹ the coronavirus disease 2019 pandemic.

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

8
 9 1. a. During the public health emergency declared by the
 10 Governor in response to the coronavirus disease 2019 ¹**(COVID-19)**¹
 11 pandemic, any ¹**restaurant or dining** food or beverage¹
 12 establishment, or banquet or wedding venue, in any indoor area on its
 13 premises, shall limit the number of customers or patrons served up to:

14 (1) ¹**25 percent** the percentage¹ of the ¹**establishment's**
 15 establishment or venue's¹ capacity as permitted by the Governor in
 16 an active executive order issued in response to the coronavirus disease
 17 2019 pandemic¹ if the establishment ¹or venue¹ does not certify as to
 18 the measures it is taking in accordance ¹**to** with¹ paragraph (2) of
 19 this subsection to mitigate the risks of coronavirus disease 2019; or

20 (2) ¹**50 percent of the establishment's** full¹ capacity if:

21 (a) the establishment ¹or venue¹ is in a region of the State that is
 22 designated by the Department of Health as having a coronavirus
 23 disease 2019 activity level of ¹**moderate or lower** low¹ based on the
 24 most up to date activity report issued by the Department of Health;

25 (b) the establishment ¹or venue¹ certifies to the county board of
 26 health in which the ¹**restaurant** establishment or venue¹ is located
 27 that the establishment ¹or venue¹ has:

28 (i) ¹**Installed** installed¹ barriers of plexi-glass, plastic, or some
 29 other material that has been approved by the commissioner between
 30 each table;

31 (ii) ¹**Limited** limited¹ parties dining together ¹to¹ 10 or fewer
 32 individuals;

33 (iii) provided the county board of health with information on the
 34 ¹**restaurant's** establishment or venue's¹ capacity at 100 percent, 50
 35 percent, and 25 percent; and

36 (iv) ¹**Where** where¹ there is a presumptive positive or positive
 37 case of ¹coronavirus disease 2019¹ an employee, guest, visitor, or
 38 vendor, shut down immediately to disinfect, notify the county board of
 39 health and all employees, guests, visitors, or vendors, while adhering
 40 to all confidentiality requirements in accordance with the federal
 41 "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.)
 42 and any other applicable laws pertaining to privacy or confidentiality
 43 of medical information;

EXPLANATION – Matter enclosed in bold-faced brackets **thus** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted May 6, 2021.

1 (c) the establishment ¹or venue¹ creates and submits a certified
2 coronavirus disease 2019 preparedness plan, in a form created by the
3 Department of Health, to the county board of health, which includes:

4 (i) employee protocols on how to monitor for signs and symptoms
5 of coronavirus disease 2019, including a policy for employees to
6 report their signs and symptoms prior to entering the workplace and
7 for employees to report when they are sick ¹**[.]** ¹;

8 (ii) a policy on presumptive or actual positive coronavirus disease
9 2019 cases of any employee, guest, visitor ¹ ¹ or vendor that requires
10 the business to suspend operations immediately for cleaning and
11 disinfection in accordance with ¹federal¹ Centers for Disease Control
12 and Prevention (CDC) guidance prior to restarting operations;

13 (iii) an outline of its sick leave policy, including a certification of
14 its compliance with all requirements under the "Family Leave Act,"
15 P.L.1989, c.261 (C.34:11B-1 et seq.), the federal "Family and Medical
16 Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et seq.), P.L.2018,
17 c.10 (C.34:11D-1 et seq.), ¹and¹ P.L.1948, c.110 (C.43:21-25 et seq.),
18 to the extent those laws are applicable, and any other applicable State
19 or federal laws regarding leave;

20 (iv) a policy to ensure adequate social distancing by maintaining a
21 distance of at least six feet between individuals, or groups of
22 individuals, in the establishment ¹or venue¹ , whether the individuals
23 are patrons or employees, to the extent possible;

24 (v) where it is not possible to maintain a distance of six feet
25 between individuals, a policy to erect barriers between individuals,
26 which shall include the type of barrier utilized,

27 (vi) ¹**[imit]** ¹a limit¹ to the number of patrons that may be seated
28 together at the same time;

29 (vii) requiring each employee to wash hands immediately after
30 entering the building and frequently throughout the employee's shift;

31 (viii) the installation of hand-sanitizer dispensers or stations at the
32 entrance of the establishment ¹or venue¹ and in areas throughout the
33 establishment ¹or venue¹ for employees and patrons to be used for
34 hand hygiene in addition to soap and water in restrooms;

35 (ix) requiring masks for all employees who are in direct contact
36 with patrons, making masks available to all employees at no cost to the
37 employees, and requiring masks be worn by all patrons until drinks or
38 meals arrive at the table;

39 (x) ventilation protocols that include the maintenance of all
40 building systems and an ongoing assessment of the amount of fresh air
41 and air recirculation in the establishment ¹or venue¹ , and ensuring that
42 ventilation systems are being properly used;

43 (xi) cleaning and disinfection protocols that ¹ ¹ identify who is
44 cleaning and disinfecting if there is a presumptive or positive case of
45 coronavirus disease 2019 ¹**[.]** ¹ require that there will be frequent
46 cleaning and disinfecting of all food surfaces, including ¹ ¹ but not
47 limited to, equipment, including restrooms, high touch areas, meeting

rooms, host stations, railings, credit card readers, counters, and menus
[.] ; and require that tables, chairs, and other shared items will be
cleaned and disinfected after each use;

(xii) signage protocols to inform customers to remain at least six
feet apart while in the establishment or venue, and signage at the
entrance with the certification that the establishment has met the
requirements of this act and is allowed to serve patrons at [50
percent] full capacity; and

(xiii) communication and training protocols to ensure that all
employees have access to the preparedness plan required under this
paragraph and that all employees are properly trained to comply with
the preparedness plan;

(d) with respect to customers who dine in the establishment or
venue and not those who order takeout or delivery from the
establishment or venue, the establishment or venue agrees to
conduct contact tracing in the event [or] of a presumptive positive
case or a positive case of coronavirus disease 2019, which shall
include such preemptive measures as maintaining records of the names
and contact information of all persons who enter the establishment or
venue; and

(e) the establishment or venue certifies that it is in compliance
with all other applicable State and federal laws.

b. (1) A [restaurant or dining] food or beverage establishment
, or banquet or wedding venue, may submit an application to operate
at 50 percent or full capacity indoors at any time to the county board
of health, which shall review and determine eligibility to operate at 50
percent or full capacity , as is applicable based on the COVID-19
activity level in which the establishment or venue is located, within
[seven] 14 days of receipt of the [establishment's] establishment
or venue's application. If the county board of health determines that
the establishment or venue has submitted insufficient documentation
for a determination of eligibility, then the establishment or venue shall
have seven days from the date of the board's notice of insufficient
information to provide the necessary documentation.

c. If a region's activity level of coronavirus disease 2019
increases above low but no higher than moderate , as determined
in the Department of Health's "[Covid-19] COVID-19 Activity
Report," and an establishment or venue complies with the
certification and other requirements established under paragraph (2) of
subsection a. of this section, all establishments within the region shall
[decrease] maintain their indoor operations to a maximum of [25]
50 percent capacity of the [establishment's] establishment or
venue's capacity.

d. Any person may report a suspected violation of this act to the
appropriate county board of health. The board of health or county

1 health department to which the violation was reported shall investigate
2 the alleged violation. If it is determined that the establishment ¹or
3 venue¹ violated the provisions of this act, the county board of health
4 shall have the discretion to reduce the capacity of the establishment
5 ¹~~to 25 percent~~¹ until the violation is remediated to the satisfaction of
6 the county board of health. ¹As an alternative to a reduction in
7 capacity, a county board of health may issue a stop-work order to an
8 establishment or venue in violation of this act. The order shall remain
9 in effect until the county board of health issues an order releasing the
10 stop-work order upon finding that the establishment or venue is in
11 compliance with this act.¹

12 e. The Department of Health shall routinely update and publish
13 its “ ¹~~Covid-19~~ COVID-19¹ Activity Level Report” and distribute
14 the report, as updated, to all the county boards of health in a timely
15 manner. ¹~~This~~ The¹ department shall post this information on its
16 website and report its findings to each county on a monthly basis.

17 f. Nothing in this act shall be construed to relieve a ¹~~restaurant~~
18 ~~or dining~~ food or beverage¹ establishment, or a banquet or wedding
19 venue, of any requirement established by any other law or regulation.

20 g. Notwithstanding the provisions of this act, if the Governor
21 issues an executive order permitting ¹~~restaurants, dining~~ food or
22 beverage¹ establishments, or banquet or wedding venues, to operate at
23 a higher capacity ¹~~than 25 percent~~¹ indoors without compliance
24 with the requirements of this act, the requirements of this act shall not
25 prohibit such establishments ¹or venues¹ from operating in accordance
26 with the Governor’s executive order.

27 h. The Commissioner of Health, in consultation with the
28 Commissioner of Labor and Workforce Development ^{1,1} shall
29 establish rules and regulations necessary to implement the provisions
30 of this act. ¹A county board of health may request assistance from the
31 Departments of Health and Labor and Workforce Development, or
32 appropriate political subdivisions of the State, in implementing the
33 provisions of this act.

34 i. As used in this act, and notwithstanding any law, rule, or
35 regulation to the contrary, “food or beverage establishment” includes
36 restaurants, cafeterias, dining establishments, and food courts, with or
37 without a liquor license, bars, and all other holders of a liquor license
38 with retail consumption privileges.¹

39
40 2. This act shall take effect immediately and shall expire ¹~~upon~~
41 the termination of the public health emergency and any extensions
42 thereof declared by the Governor in response to the coronavirus
43 disease 2019 pandemic ¹~~on the later of:~~

44 a. the date of expiration, termination, or rescission of any and all
45 executive or administrative orders issued by the Governor or
46 Commissioner of Health establishing occupancy or customer seating

- 1 restrictions related to coronavirus disease 2019 that are applicable to
- 2 food or beverage establishments or venues; or
- 3 b. the first day of the seventh month next following the date on
- 4 which the Governor declares that the state of emergency declared in
- 5 response to the coronavirus disease 2019 pandemic has ended¹ .