

# SENATE HEALTH, HUMAN SERVICES AND SENIOR CITIZENS COMMITTEE

## STATEMENT TO **SENATE, No. 3374**

with committee amendments

# STATE OF NEW JERSEY

DATED: MAY 6, 2021

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 3374.

As amended by the committee, this bill establishes certain requirements concerning the indoor operation of food or beverage establishments and of banquet and weddings venues during the public health emergency declared in response to the coronavirus disease 2019 (COVID-19) pandemic. The bill defines the term “food or beverage establishment” to include restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, bars, and all other holders of a liquor license with retail consumption privileges.

Under the bill, the default indoor capacity percentage for food or beverage establishments and banquet and wedding venues will be the maximum capacity authorized by the Governor by executive order. In areas with a COVID-19 activity level of “low,” as determined by the Department of Health (DOH), food or beverage establishments and banquet or wedding venues, will be authorized to operate at full capacity, provided they meet the requirements of the bill. In areas with a COVID-19 activity level higher than “low,” but no higher than “moderate,” the indoor capacity percentage will be 50 percent. In the event the Governor authorizes a higher capacity than is authorized under the bill, and does not require compliance with the requirements of the bill, the provisions of the bill will not apply to that increased capacity.

Specifically, under the bill, within regions of the State that have a low level of COVID-19 activity, an establishment or venue may provide indoor service to a number of persons at full capacity if the establishment or venue institutes:

(1) employee protocols to monitor for signs and symptoms of COVID-19;

(2) a policy requiring the business to suspend operations immediately for cleaning and disinfection if someone with COVID-19 is on the premises;

- (3) a sick leave policy;
- (4) a “six feet” social distancing policy;
- (5) a policy to erect physical barriers if it is not possible to maintain a “six feet” social distancing policy;
- (6) a limit to the number of persons that may be seated together at the same time;
- (7) an employee hand-washing policy;
- (8) the installation of hand-sanitizer dispensers or stations at the entrance to, and throughout, the establishment or venue;
- (9) a mask policy;
- (10) ventilation protocols;
- (11) cleaning and disinfection protocols;
- (12) signage protocols; and
- (13) communication and training protocols.

The establishment or venue will also be required to install barriers between each table; limit parties dining together to 10 or fewer individuals; inform the county board of health of the establishment’s or venue’s capacity; and shut down immediately to clean and disinfect upon identifying an employee, guest, visitor, or vendor who is presumptive positive or tests positive for COVID-19.

Additionally, the bill requires an establishment or venue to conduct contact tracing upon identifying a dine-in customer with a presumptive positive case or a positive case of COVID-19. This requirement would not apply to customers who order takeout or delivery from an establishment or venue.

The county board of health has the ability to order a reduction in capacity or to shut down establishments or venues that are in violation of the requirements established under the bill.

An establishment or venue may submit an application to operate at 50 percent or full capacity indoors at any time to the county board of health, which will review and determine eligibility to operate at 50 percent or full capacity, as applicable based on the local COVID-19 activity level, within 14 days of receipt of the 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 will have seven days to provide the necessary documentation.

The bill provides that county boards of health may seek assistance from State officials or appropriate political subdivisions to help implement the provisions of the bill.

The bill requires the DOH to routinely update and publish its “COVID-19 Activity Level Report” and distribute the report, as updated, to all the county boards of health in a timely manner. The DOH will be required to post this information on its website and report its findings to each county on a monthly basis.

Nothing in the bill is to be construed to relieve an establishment or venue of any requirement established by any other law or regulation.

As reported by the committee with committee amendments, Senate Bill No. 3374 is identical to Assembly Bill No. 5133 (ACS)(1R), which was also amended and reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments revise the bill to provide that a county board of health will have the authority to shut down establishments or venues in violation of the requirements of the bill in lieu of reducing capacity of the establishment or venue.

The committee amendments provide the county board of health with 14 days, instead of seven, to make an eligibility determination, and provide that, if the board determines that the establishment or venue has provided insufficient information to make an eligibility determination, then the establishment or venue will have seven days thereafter to provide the necessary information.

The committee amendments provide that the default capacity percentage established under the bill will be the capacity level currently authorized by the Governor.

The committee amendments provide that, if an establishment or venue adheres to the requirements for increased capacity and is located within in an area where the COVID-19 activity is designated as “low,” then it can operate at 100 percent capacity.

The committee amendments provide that, if an establishment or venue adheres to the requirements for increased capacity and is located within in an area where the COVID-19 activity is designated as above “low” but not higher than “moderate,” then it can operate at 50 percent capacity.

The committee amendments specify that county boards of health may seek assistance from State officials or appropriate political subdivisions to assist in the implementation and enforcement of the bill.

The committee amendments provide that an establishment or venue will not be required to comply with the provisions of the bill if the Governor issues an executive order permitting operation at a higher capacity without compliance with the requirements of the bill.

The committee amendments make various technical changes to address issues pertaining to internal citations, capitalization, syntax, punctuation, and grammar.