

SENATE, No. 60

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator NILSA I. CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning indoor capacity for food and dining
2 establishments and banquet and wedding venues during the
3 coronavirus disease 2019 pandemic.
4

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

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

13 (1) the percentage of the establishment or venue's capacity as
14 permitted by the Governor in an active executive order issued in
15 response to the coronavirus disease 2019 pandemic if the
16 establishment or venue does not certify as to the measures it is
17 taking in accordance with paragraph (2) of this subsection to
18 mitigate the risks of coronavirus disease 2019; or

19 (2) full capacity if:

20 (a) the establishment or venue is in a region of the State that is
21 designated by the Department of Health as having a coronavirus
22 disease 2019 activity level of low based on the most up to date
23 activity report issued by the Department of Health;

24 (b) the establishment or venue certifies to the county board of
25 health in which the establishment or venue is located that the
26 establishment or venue has:

27 (i) installed barriers of plexi-glass, plastic, or some other
28 material that has been approved by the commissioner between each
29 table;

30 (ii) limited parties dining together to 10 or fewer individuals;

31 (iii) provided the county board of health with information on the
32 establishment or venue's capacity at 100 percent, 50 percent, and 25
33 percent; and

34 (iv) where there is a presumptive positive or positive case of
35 coronavirus disease 2019 in an employee, guest, visitor, or vendor,
36 shut down immediately to disinfect, notify the county board of
37 health and all employees, guests, visitors, or vendors, while
38 adhering to all confidentiality requirements in accordance with the
39 federal "Americans with Disabilities Act of 1990" (42 U.S.C.
40 s.12101 et seq.) and any other applicable laws pertaining to privacy
41 or confidentiality of medical information;

42 (c) the establishment or venue creates and submits a certified
43 coronavirus disease 2019 preparedness plan, in a form created by
44 the Department of Health, to the county board of health, which
45 includes:

46 (i) employee protocols on how to monitor for signs and
47 symptoms of coronavirus disease 2019, including a policy for

- 1 employees to report their signs and symptoms prior to entering the
2 workplace and for employees to report when they are sick;
- 3 (ii) a policy on presumptive or actual positive coronavirus
4 disease 2019 cases of any employee, guest, visitor, or vendor that
5 requires the business to suspend operations immediately for
6 cleaning and disinfection in accordance with federal Centers for
7 Disease Control and Prevention (CDC) guidance prior to restarting
8 operations;
- 9 (iii) an outline of its sick leave policy, including a certification
10 of its compliance with all requirements under the "Family Leave
11 Act," P.L.1989, c.261 (C.34:11B-1 et seq.), the federal "Family and
12 Medical Leave Act of 1993," Pub.L.103-3
13 (29 U.S.C. s.2601 et seq.), P.L.2018, c.10 (C.34:11D-1 et seq.), and
14 P.L.1948, c.110 (C.43:21-25 et seq.), to the extent those laws are
15 applicable, and any other applicable State or federal laws regarding
16 leave;
- 17 (iv) a policy to ensure adequate social distancing by maintaining
18 a distance of at least six feet between individuals, or groups of
19 individuals, in the establishment or venue, whether the individuals
20 are patrons or employees, to the extent possible;
- 21 (v) where it is not possible to maintain a distance of six feet
22 between individuals, a policy to erect barriers between individuals,
23 which shall include the type of barrier utilized;
- 24 (vi) a limit to the number of patrons that may be seated together
25 at the same time;
- 26 (vii) requiring each employee to wash hands immediately after
27 entering the building and frequently throughout the employee's
28 shift;
- 29 (viii) the installation of hand-sanitizer dispensers or stations at
30 the entrance of the establishment or venue and in areas throughout
31 the establishment or venue for employees and patrons to be used for
32 hand hygiene in addition to soap and water in restrooms;
- 33 (ix) requiring masks for all employees who are in direct contact
34 with patrons, making masks available to all employees at no cost to
35 the employees, and requiring masks be worn by all patrons until
36 drinks or meals arrive at the table;
- 37 (x) ventilation protocols that include the maintenance of all
38 building systems and an ongoing assessment of the amount of fresh
39 air and air recirculation in the establishment or venue, and ensuring
40 that ventilation systems are being properly used;
- 41 (xi) cleaning and disinfection protocols that: identify who is
42 cleaning and disinfecting if there is a presumptive or positive case
43 of coronavirus disease 2019; require that there will be frequent
44 cleaning and disinfecting of all food surfaces, including, but not
45 limited to, equipment, including restrooms, high touch areas,
46 meeting rooms, host stations, railings, credit card readers, counters,
47 and menus; and require that tables, chairs, and other shared items
48 will be cleaned and disinfected after each use;

- 1 (xii) signage protocols to inform customers to remain at least six
2 feet apart while in the establishment or venue, and signage at the
3 entrance with the certification that the establishment or venue has
4 met the requirements of this act and is allowed to serve patrons at
5 full capacity; and
- 6 (xiii) communication and training protocols to ensure that all
7 employees have access to the preparedness plan required under this
8 paragraph and that all employees are properly trained to comply
9 with the preparedness plan;
- 10 (d) with respect to customers who dine in the establishment or
11 venue and not those who order takeout or delivery from the
12 establishment or venue, the establishment or venue agrees to
13 conduct contact tracing in the event of a presumptive positive case
14 or a positive case of coronavirus disease 2019, which shall include
15 such preemptive measures as maintaining records of the names and
16 contact information of all persons who enter the establishment or
17 venue; and
- 18 (e) the establishment or venue certifies that it is in compliance
19 with all other applicable State and federal laws.
- 20 b. A food or beverage establishment, or banquet or wedding
21 venue, may submit an application to operate at 50 percent or full
22 capacity indoors at any time to the county board of health, which
23 shall review and determine eligibility to operate at 50 percent or full
24 capacity, as is applicable based on the COVID-19 activity level in
25 which the establishment or venue is located, within 14 days of
26 receipt of the establishment or venue's application. If the county
27 board of health determines that the establishment or venue has
28 submitted insufficient documentation for a determination of
29 eligibility, then the establishment or venue shall have seven days
30 from the date of the board's notice of insufficient information to
31 provide the necessary documentation.
- 32 c. If a region's activity level of coronavirus disease 2019
33 increases above low but no higher than moderate, as determined in
34 the Department of Health's "COVID-19 Activity Report," and an
35 establishment or venue complies with the certification and other
36 requirements established under paragraph (2) of subsection a. of
37 this section, all establishments or venues within the region shall
38 maintain their indoor operations to a maximum of 50 percent
39 capacity of the establishment or venue's capacity.
- 40 d. Any person may report a suspected violation of this act to
41 the appropriate county board of health. The board of health or
42 county health department to which the violation was reported shall
43 investigate the alleged violation. If it is determined that the
44 establishment or venue violated the provisions of this act, the
45 county board of health shall have the discretion to reduce the
46 capacity of the establishment or venue until the violation is
47 remediated to the satisfaction of the county board of health. As an
48 alternative to a reduction in capacity, a county board of health may

1 issue a stop-work order to an establishment or venue in violation of
2 this act. The order shall remain in effect until the county board of
3 health issues an order releasing the stop-work order upon finding
4 that the establishment or venue is in compliance with this act.

5 e. The Department of Health shall routinely update and publish
6 its “COVID-19 Activity Level Report” and distribute the report, as
7 updated, to all the county boards of health in a timely manner. The
8 department shall post this information on its website and report its
9 findings to each county on a monthly basis.

10 f. Nothing in this act shall be construed to relieve a food or
11 beverage establishment, or a banquet or wedding venue, of any
12 requirement established by any other law or regulation.

13 g. Notwithstanding the provisions of this act, if the Governor
14 issues an executive order permitting food or beverage
15 establishments, or banquet or wedding venues, to operate at a
16 higher capacity indoors without compliance with the requirements
17 of this act, the requirements of this act shall not prohibit such
18 establishments or venues from operating in accordance with the
19 Governor’s executive order.

20 h. The Commissioner of Health, in consultation with the
21 Commissioner of Labor and Workforce Development, shall
22 establish rules and regulations necessary to implement the
23 provisions of this act. A county board of health may request
24 assistance from the Departments of Health and Labor and
25 Workforce Development, or appropriate political subdivisions of
26 the State, in implementing the provisions of this act.

27 i. As used in this act, and notwithstanding any law, rule, or
28 regulation to the contrary, “food or beverage establishment”
29 includes restaurants, cafeterias, dining establishments, and food
30 courts, with or without a liquor license, bars, and all other holders
31 of a liquor license with retail consumption privileges.

32
33 2. This act shall take effect immediately and shall expire on the
34 later of:

35 a. the date of expiration, termination, or rescission of any and
36 all executive or administrative orders issued by the Governor or
37 Commissioner of Health establishing occupancy or customer
38 seating restrictions related to coronavirus disease 2019 that are
39 applicable to food or beverage establishments or venues; or

40 b. the first day of the seventh month next following the date on
41 which the Governor declares that the state of emergency declared in
42 response to the coronavirus disease 2019 pandemic has ended.

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45 STATEMENT

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47 The bill establishes certain requirements concerning the indoor
48 operation of food or beverage establishments and of banquet and

1 weddings venues during the public health emergency declared in
2 response to the coronavirus disease 2019 (COVID-19) pandemic. The
3 bill defines the term “food or beverage establishment” to include
4 restaurants, cafeterias, dining establishments, and food courts, with or
5 without a liquor license, bars, and all other holders of a liquor license
6 with retail consumption privileges.

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

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

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

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

29 (3) a sick leave policy;

30 (4) a “six feet” social distancing policy;

31 (5) a policy to erect physical barriers if it is not possible to
32 maintain a “six feet” social distancing policy;

33 (6) a limit to the number of persons that may be seated together at
34 the same time;

35 (7) an employee hand-washing policy;

36 (8) the installation of hand-sanitizer dispensers or stations at the
37 entrance to, and throughout, the establishment or venue;

38 (9) a mask policy;

39 (10) ventilation protocols;

40 (11) cleaning and disinfection protocols;

41 (12) signage protocols; and

42 (13) communication and training protocols.

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

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

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

9 An establishment or venue may submit an application to operate at
10 50 percent or full capacity indoors at any time to the county board of
11 health, which will review and determine eligibility to operate at 50
12 percent or full capacity, as applicable based on the local COVID-19
13 activity level, within 14 days of receipt of the application. If the
14 county board of health determines that the establishment or venue has
15 submitted insufficient documentation for a determination of eligibility,
16 then the establishment or venue will have seven days to provide the
17 necessary documentation.

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

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

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