P.L. 2022, CHAPTER 85. approved August 3, 2022
Senate, No. 2364 (Second Reprint)

AN ACT concerning the use of tents and other fixtures for outdoor dining on certain property, and amending and supplementing P.L. 2021, c.15.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L. 2021, c.15 is amended to read as follows:

As used in this act, P.L.2021, c.15, and only for the purposes of this act:

"Brewery" means a brewery operating under a brewery license pursuant to R.S.33:1-10.

"Distillery" means a distillery that has been issued, and is in compliance with, a distillery license pursuant to R.S.33:1-10.

"Food" means food that is cooked, prepared, sold, served, and consumed on the business premises.

"Outdoor space" means a patio or deck, whether covered or uncovered, a yard, a walkway, or a parking lot, or a portion of any such space, that is located on or adjacent to the business premises, which space is owned, leased, otherwise in the lawful control of the owner or operator of the business premises, or any space which is designated by a municipality or county for outdoor dining pursuant to P.L.2021, c.15.

"Public sidewalk" means a sidewalk on the locally or county owned public right-of-way which is adjacent to the business premises, or a portion thereof.

"Special Ruling No. 2020-10" means Special Ruling No. 2020-10, issued by the acting director of the Division of Alcoholic Beverage Control on June 3, 2020.

2. Section 4 of P.L. 2021, c.15 is amended to read as follows:

Notwithstanding the provisions of any other law to the contrary, the expiration date of any COVID-19 Expansion Permit issued by the Director of the Division of Alcoholic Beverage Control pursuant to the provisions of Special Ruling No. 2020-10 shall be November 30, 2024 or the date on which indoor dining resumes without capacity limitations pursuant to an executive order issued by the Governor, whichever is later.

b. The governing body of a municipality may file with the Division of Alcoholic Beverage Control an objection to the

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 SBA committee amendments adopted March 21, 2022.
2Assembly floor amendments adopted June 29, 2022.
continued operation under subsection a. of this section by any
licensee or permittee the governing body finds to have:
(1) failed to follow, maintain, and enforce protocols
promulgated by the Commissioner of Health or by Executive Order
of the Governor in response to the COVID-19 public health
emergency concerning social distancing and the use of personal
protective equipment; or
(2) violated any other health, safety, fire, permitted use, or
zoning regulations or ordinances not otherwise directly superseded
by this section or Special Ruling No. 2020-10.
Any decision rendered, or action taken, by the Director of the
Division of Alcoholic Beverage Control as a result of an objection
filed by the governing body of the municipality pursuant to this
subsection shall be a final agency action subject to judicial review
in the Appellate Division of the Superior Court of New Jersey in
accordance with the Rules of Court.
c. Nothing in this act shall preclude or limit the authority
provided to the Director of the Division of Alcoholic Beverage
Control pursuant to the provisions of Title 33 of the Revised
Statutes or the exercise of such authority thereby.
(cf: P.L.2021, c.15, s.4)
3. Section 10 of P.L.2021, c.15 is amended to read as follows:
10. This act shall take effect on the 30th day following
enactment and sections 1 through 8 shall expire 2 at 11:59 p.m. 2 on
November 30, [2022] 2024 [or on the date of the resumption,
pursuant to an executive order issued by the Governor, of indoor
dining without capacity limitations, whichever is later].
(cf: P.L.2021, c.15, s.10)
4. (New section) Notwithstanding any provision of law to the
contrary, while P.L.2021, c.15 is in effect, the installation and
continuous use of tents, canopies, umbrellas, tables, chairs, and
other fixtures on private property or public property or right of way
designated by a municipality pursuant to P.L.2021, c.15 and P.L. 2,
c. (pending before the Legislature as this bill), shall be a
permitted use provided that the tent, canopy, umbrella, table, chairs,
or other fixture conforms to all applicable provisions of the State
Uniform Construction Code and 2 [Fire Prevention Subcode 2
Uniform Fire Code 2], which have been adopted by the
Commissioner of Community Affairs pursuant to P.L.1975, c.217
seq.), respectively 2. The permitted use of tents, canopies,
umbrellas, tables, chairs, and other fixtures allowed by this section
shall be limited to the timeframe encompassing the first day of
April through the 2 [first day of December] 2 close of business on
November 30 2 for each year in which P.L.2021, c.15 is in
effect. Any administrative rule or regulation with the exception of those applicable pursuant to the Uniform Construction Code and Uniform Fire Code which limits the use of tents, canopies, umbrellas, tables, chairs and other fixtures to 180 days or less during the time frame encompassing the first day of April through the first day of December. Close of business on November 30 shall be inapplicable during the time that P.L. 2021, c.15 is in effect. Notwithstanding the foregoing, any administrative rule or regulation which governs the use of tents, canopies, umbrellas, tables, chairs, and other fixtures on private or public property or right of way designated by a municipality pursuant to P.L. 2021, c.15 and P.L. (pending before the Legislature as this bill) for the time period encompassing the second first day of December through the last day of March shall not be impacted by P.L. (pending before the Legislature as this bill).

5. This act shall take effect immediately.

Concerns use of tents and other fixtures for outdoor dining on certain property.