

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

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

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 1 of P.L.2021, c.15 is amended to read as follows:

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

11 “Brewery” means a brewery operating under a brewery license  
12 pursuant to R.S.33:1-10.

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

15 “Food” means food that is cooked, prepared, sold, served, and  
16 consumed on the business premises.

17 “Outdoor space” means a patio or deck, whether covered or  
18 uncovered, a yard, a walkway, or a parking lot, or a portion of any  
19 such space, that is located on or adjacent to the business premises,  
20 which space is owned, leased, **[or]** otherwise in the lawful control  
21 of the owner or operator of the business premises, or any space  
22 which is designated by a municipality or county for outdoor dining  
23 pursuant to P.L.2021, c.15.

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

27 “Special Ruling No. 2020-10” means Special Ruling No. 2020-  
28 10, issued by the acting director of the Division of Alcoholic  
29 Beverage Control on June 3, 2020.

30 (cf: P.L.2021, c.15, s.1)

31

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

33 4. a. Notwithstanding the provisions of any other law to the  
34 contrary, the expiration date of any COVID-19 Expansion Permit  
35 issued by the Director of the Division of Alcoholic Beverage  
36 Control pursuant to the provisions of Special Ruling No. 2020-10  
37 shall be November 30, **[2022]** 2024 **[or the date on which indoor**  
38 **dining resumes without capacity limitations pursuant to an**  
39 **executive order issued by the Governor, whichever is later]**.

40 b. The governing body of a municipality may file with the  
41 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:**

<sup>1</sup>Senate SBA committee amendments adopted March 21, 2022.

<sup>2</sup>Assembly floor amendments adopted June 29, 2022.

1 continued operation under subsection a. of this section by any  
2 licensee or permittee the governing body finds to have:

3 (1) failed to follow, maintain, and enforce protocols  
4 promulgated by the Commissioner of Health or by Executive Order  
5 of the Governor in response to the COVID-19 public health  
6 emergency concerning social distancing and the use of personal  
7 protective equipment; or

8 (2) violated any other health, safety, fire, permitted use, or  
9 zoning regulations or ordinances not otherwise directly superseded  
10 by this section or Special Ruling No. 2020-10.

11 Any decision rendered, or action taken, by the Director of the  
12 Division of Alcoholic Beverage Control as a result of an objection  
13 filed by the governing body of the municipality pursuant to this  
14 subsection shall be a final agency action subject to judicial review  
15 in the Appellate Division of the Superior Court of New Jersey in  
16 accordance with the Rules of Court.

17 c. Nothing in this act shall preclude or limit the authority  
18 provided to the Director of the Division of Alcoholic Beverage  
19 Control pursuant to the provisions of Title 33 of the Revised  
20 Statutes or the exercise of such authority thereby.

21 (cf: P.L.2021, c.15, s.4)

22

23 3. Section 10 of P.L.2021, c.15 is amended to read as follows:

24 10. This act shall take effect on the 30th day following  
25 enactment and sections 1 through 8 shall expire <sup>2</sup>at 11:59 p.m.<sup>2</sup> on  
26 November 30, ~~2022~~ 2024 **[**or on the date of the resumption,  
27 pursuant to an executive order issued by the Governor, of indoor  
28 dining without capacity limitations, whichever is later**]**.

29 (cf: P.L.2021, c.15, s.10)

30

31 4. (New section) Notwithstanding any provision of law to the  
32 contrary, while P.L.2021, c.15 is in effect, the installation and  
33 continuous use of tents, canopies, umbrellas, tables, chairs, and  
34 other fixtures on private property or public property or right of way  
35 designated by a municipality pursuant to P.L.2021, c.15 and P.L. ,  
36 c. (pending before the Legislature as this bill), shall be a  
37 permitted use provided that the tent, canopy, umbrella, table, chairs,  
38 or other fixture conforms to all applicable provisions of the State  
39 Uniform Construction Code and <sup>2</sup>**[**Fire Prevention Subcode**]**  
40 Uniform Fire Code<sup>2</sup>, which have been adopted by the  
41 Commissioner of Community Affairs pursuant to P.L.1975, c.217  
42 (C.52:27D-119, et seq.) <sup>2</sup>and P.L.1983, c.383 (C.52:27D-192 et  
43 seq.), respectively<sup>2</sup>. The permitted use of tents, canopies,  
44 umbrellas, tables, chairs, and other fixtures allowed by this section  
45 shall be limited to the timeframe encompassing the first day of  
46 April through the <sup>2</sup>**[**first day of December**]** close of business on  
47 November 30<sup>2</sup> for each year in which P.L.2021, c.15 is in

1 effect. Any administrative rule or regulation <sup>2</sup>, with the exception  
2 of those applicable pursuant to the Uniform Construction Code and  
3 Uniform Fire Code,<sup>2</sup> which limits the use of tents, canopies,  
4 umbrellas, tables, chairs and other fixtures to 180 days or less  
5 <sup>1</sup>during the time frame encompassing the first day of April through  
6 the <sup>2</sup>[first day of December<sup>1</sup>] close of business on November 30<sup>2</sup>  
7 shall be inapplicable during the time that P.L.2021, c.15 is in effect.  
8 <sup>1</sup>Notwithstanding the foregoing, any administrative rule or  
9 regulation which governs the use of tents, canopies, umbrellas,  
10 tables, chairs, and other fixtures on private or public property or  
11 right of way designated by a municipality pursuant to P.L.2021,  
12 c.15 and P.L. , c. (pending before the Legislature as this bill) for  
13 the time period encompassing the <sup>2</sup>[second] first<sup>2</sup> day of December  
14 through the last day of March shall not be impacted by P.L. ,  
15 c. (pending before the Legislature as this bill).<sup>1</sup>

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17 5. This act shall take effect immediately.

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