

ASSEMBLY AGRICULTURE AND FOOD SECURITY
COMMITTEE

STATEMENT TO

SENATE, No. 757

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 21, 2022

The Assembly Agriculture and Food Security Committee reports favorably Senate Bill No. 757, with committee amendments.

As amended, this bill would authorize certain commercial farms, as specified in the bill, that are located on preserved farmland, and produce agricultural or horticultural products worth \$10,000 or more annually, to hold special occasion events, subject to certain conditions.

The bill would establish various restrictions on the special occasion events. The size and frequency of special occasion events would be limited as described below, except that a municipality may increase the allowable frequency and size of indoor and outdoor special occasion events by municipal ordinance. The bill would authorize a commercial farm to hold up to 26 special occasion events each calendar year, of which only six events may have 250 guests or more in attendance at any time during the event. An event would be considered as a single special occasion event even if the event lasts for more than one day, provided the event is marketed as a single event, occurs only on consecutive days, and does not last for more than two days. If all roads on the perimeter of a commercial farm have a speed limit of 25 miles per hour or less, then the municipality may restrict the commercial farm to holding no more than two special occasion events per year with 1,500 guests or more.

The bill prohibits more than 15 of the special occasion events each calendar year from being held in a permanent structure, of which only two may have 250 guests or more in attendance at any time during the event. A municipality may further limit the number of special occasion events that may be held indoors in a permanent structure to no more than seven special occasion events, of which only one may have 250 guests or more. However, events attended by fewer than 75 people would not be considered special occasion events for the purposes of indoor event limitations. A winery would not be restricted by special occasion event limitations specific to indoor events.

Under the bill, a municipality may adopt a municipal ordinance to increase the number of, and allowable attendance at, special occasion events. However, a commercial farm would not be authorized to hold

more than one special occasion event with over 75 guests per calendar day.

The bill would also authorize a municipality to restrict a commercial farm from conducting special occasion events unless the farm receives approval from a municipal officer or agency, to be designated by ordinance of the municipal governing body. A municipality may require an application if the special occasion event would generate a parking or traffic flow situation that could unreasonably interfere with the movement of normal traffic or emergency vehicles or other organized group sharing similar common purposes or goals proceeding in or upon any street, park or other public place within the municipality, or require the expenditure of municipal resources or inspections from agencies or authorities of the municipality. The bill would limit the application fee to no more than \$200, and would provide that the application be limited to an identification of locations of where tents and other temporary structures would be located, where music will be played, the number of expected guests, and other information that may be of public concern and would be required as a condition of approval of a similar event when conducted at a public park or another public venue.

Under section 3 of the bill, a special occasion event: (1) is required to be designed to ensure that the land can be readily returned to productive agricultural or horticultural use after the event; and (2) may not violate any applicable State and local laws, regulations, resolutions, and ordinances including those concerning alcohol, food safety, litter, noise, solid waste, traffic, and the protection of public health and safety.

With the exception of the requirements in the bill related to the numerical limitations for special occasion events and the application of local laws, regulations, resolutions, and ordinances to special occasion events, along with any associated rules and regulations adopted by the committee pursuant to section 6 of the bill, no other requirements in the bill would apply to any special occasion event held on land that is part of an exception area. For the purposes of this bill, an exception area shall be considered a part of the preserved farmland, except that the provisions in subsection b. of section 3 concerning the construction or erection of permanent structures would not apply to an exception area.

The bill would also allow a county agriculture development board (CADB) to inspect preserved farms on which special occasion events are held, upon presentation of appropriate credentials during normal business hours or during a special occasion event, in order to determine compliance with the bill's provisions. The bill authorizes CADB inspections to occur once annually unless complaints necessitate additional inspections.

Under the bill, an owner or operator of a commercial farm who violates the bill's provisions would be subject to a civil administrative

penalty of up to \$500 for the first offense, up to \$2,500 for the second offense, or up to \$5,000 for a third and subsequent offense. In addition, an owner or operator who repeatedly violates the bill's provisions would be prohibited from holding special occasion events on the preserved farm for a period of time that increases along with the number of violations. Enforcement and inspection responsibilities under the bill would be provided to the CADB, unless the CADB transfers these responsibilities to the State Agriculture Development Committee (SADC) by a majority vote of the members.

The bill would require Rutgers, The State University to conduct an ongoing study on special occasion events on preserved farmland, and periodically report to the Governor and the Legislature on the results of the study.

The bill would appropriate \$85,000 from the General Fund to Rutgers, The State University, for the purposes of the study.

With the exception of the application of the bill to certain wineries, the bill would take effect upon the earlier of: the first day of the third month following enactment; or the adoption of a municipal ordinance designating an appropriate municipal agency to administer special occasion event approval. For a winery that has participated in the special occasion event pilot program, the bill would take effect on January 1, 2023, and the winery would continue to use the approval process established for the pilot program until January 1, 2023 thereby temporarily continuing approval processes used in association with the pilot program for these wineries.

COMMITTEE AMENDMENTS

The committee amendments to this bill make the following changes:

- Add a findings and declarations section;
- Limit the definition of “commercial farm” to exclude those farms under the bill when the farm’s farmland assessment is based entirely on the farm having a woodland management plan;
- Define “exception areas,” and clarify that these areas, identified in, but unencumbered by deeds or easement, would be considered part of any preserved farmland for the purposes of the bill, except for the application of the certain construction restrictions;
- Remove an express restriction on the amount of time a temporary structure may be erected for a special occasion event;
- Remove certain express restrictions on the effects of an event on agricultural production and on surrounding properties, but limit the permitted occupied area of a special occasion event to no more than 15 percent of the preserved farmland;

- Remove an express limitation on the extension of utility service for special occasion event purposes, and remove certain other restrictions set forth in section 2 of the bill concerning conditions for holding special occasion events;
- Modify various restrictions on the number, size, and duration of special occasion events that may be held annually, removing certain connections between the number and size of permitted events and the farming-related income of the farm;
- Establish various new restrictions on the number and size of different types of special occasion events, including a prohibition on hosting more than 26 events per year, but authorize municipalities to ease, or in some cases enhance, the restrictions;
- Provide that a municipality may not authorize a commercial farm to hold more than one special occasion event with over 75 guests per calendar day;
- Define a “winery,” and provide that, except for wineries, no more than 15 of the special occasion events permitted each year may be held indoors, of which only two events may have 250 guests or more;
- Provide that a municipality may prohibit a commercial farm from holding more than two special occasion events per calendar year with 1,500 guests or more, if all roads surrounding the farm have a speed limit of 25 miles per hour or less;
- Remove application requirements as conditions for hosting special occasion events, except that a municipality may require application to a municipal agency, with certain limitations;
- Remove the requirement to have the grantee of the development rights of the preserved farm provide approval for the holding of a special occasion event and delete the definition of the term “grantee”;
- Provide the CADB of each county with inspection and enforcement responsibilities, unless the CADB transfers these responsibilities to SADC;
- Limit the potential administrative penalties to a maximum of \$500 for the first offense, up to \$2,500 for the second offense, or up to \$5,000 for a third and subsequent offense;
- Establish limitations on the extent of regulatory discretion of SADC and delete the authority of the committee to require audits concerning special occasion events;
- Provide Rutgers University with responsibilities to conduct an ongoing study on special occasion events;
- Appropriate \$85,000 from the General Fund to Rutgers University for the study; and
- Establish a delayed effective date, except that for wineries, the bill would take effect January 1, 2023, and the winery would

continue to use the approval process established for the special occasion event pilot program until January 1, 2023.