

**SENATE, No. 2364**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

INTRODUCED MARCH 21, 2022

**Sponsored by:**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**Senator GORDON M. JOHNSON**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Senators Oroho, O'Scanlon, Testa and Thompson**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the use of tents and other fixtures for outdoor  
2 dining on certain property, and amending and supplementing P.L.  
3 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 of  
10 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 of  
21 the owner or operator of the business premises, or any space which  
22 is designated by a municipality or county for outdoor dining pursuant  
23 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. 2020-10,  
28 issued by the acting director of the Division of Alcoholic Beverage  
29 Control on June 3, 2020.

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

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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 Control  
36 pursuant to the provisions of Special Ruling No. 2020-10 shall be  
37 November 30, **[2022]** 2024 **[or the date on which indoor dining**  
38 **resumes without capacity limitations pursuant to an executive order**  
39 **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 continued  
42 operation under subsection a. of this section by any licensee or  
43 permittee the governing body finds to have:

44 (1) failed to follow, maintain, and enforce protocols promulgated  
45 by the Commissioner of Health or by Executive Order of 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.**

1 Governor in response to the COVID-19 public health emergency  
2 concerning social distancing and the use of personal protective  
3 equipment; or

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5 regulations or ordinances not otherwise directly superseded by this  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

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

13 c. Nothing in this act shall preclude or limit the authority  
14 provided to the Director of the Division of Alcoholic Beverage  
15 Control pursuant to the provisions of Title 33 of the Revised Statutes  
16 or the exercise of such authority thereby.

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

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

20 10. This act shall take effect on the 30th day following enactment  
21 and sections 1 through 8 shall expire on November 30, **[2022]** 2024  
22 **[or on the date of the resumption, pursuant to an executive order**  
23 **issued by the Governor, of indoor dining without capacity**  
24 **limitations, whichever is later]**.

25 (cf: 2021, c.15, s.10)

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27 4. (New section) Notwithstanding any provision of law to the  
28 contrary, while P.L.2021, c.15 is in effect, the installation and  
29 continuous use of tents, canopies, umbrellas, tables, chairs, and other  
30 fixtures on private property or public property or right of way  
31 designated by a municipality pursuant to P.L.2021, c.15 and P.L. ,  
32 c. (pending before the Legislature as this bill), shall be a permitted  
33 use provided that the tent, canopy, umbrella, table, chairs, or other  
34 fixture conforms to all applicable provisions of the State Uniform  
35 Construction Code and Fire Prevention Subcode, which have been  
36 adopted by the Commissioner of Community Affairs pursuant to  
37 P.L.1975, c.217 (C.52:27D-119, et seq.). The permitted use of tents,  
38 canopies, umbrellas, tables, chairs, and other fixtures allowed by this  
39 section shall be limited to the timeframe encompassing the first day  
40 of April through the first day of December for each year in which  
41 P.L.2021, c.15 is in effect. Any administrative rule or regulation  
42 which limits the use of tents, canopies, umbrellas, tables, chairs and  
43 other fixtures to 180 days or less shall be inapplicable during the time  
44 that P.L.2021, c.15 is in effect.

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46 5. This act shall take effect immediately.

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STATEMENT

This bill would expand the time period during which certain restaurants, bars, distilleries and breweries would be allowed to utilize tents, canopies, umbrellas, tables, chairs, and other fixtures on the properties on which their establishments are located. The law which currently allows these businesses to use tents, canopies, umbrellas, tables, chairs, and other fixtures to expand their capacity to serve clients would otherwise expire on November 30, 2022. This bill would extend that date until November 30, 2024.

Additionally, this bill allows the use of tents, canopies, umbrellas, tables, chairs, and other fixtures on these properties as long as the tent, canopy, umbrella, table, chairs, or other fixture conforms to all applicable fire safety and construction code provisions. The bill specifies that these tents, canopies, umbrellas, tables, chairs, and other fixtures will be deemed a permitted use for the time period encompassing the first day of April through the first day of December for each additional year in which P.L.2021, c.15 is in effect. Finally, this bill clarifies that any administrative rule or regulation which otherwise limits the use of tents or other fixtures to 180 days or less will be inapplicable during the time that P.L.2021, c.15 is in effect.