

[First Reprint]

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:

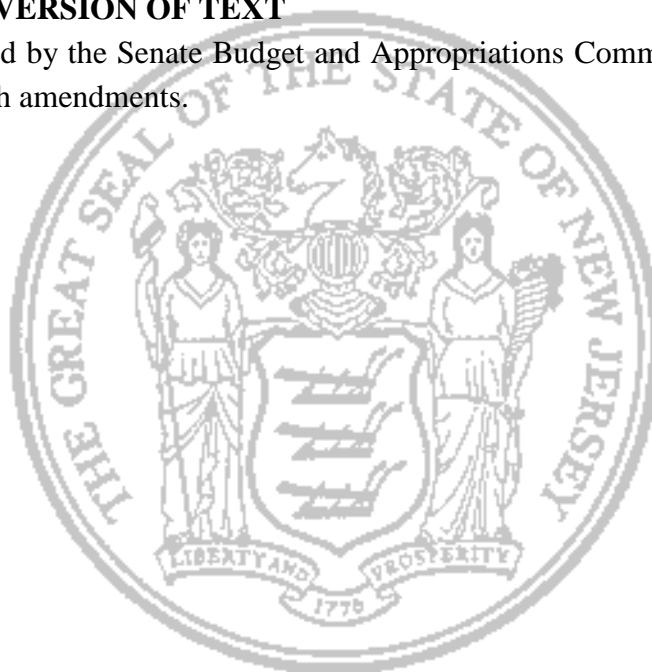
**Senators Oroho, O'Scanlon, Testa, Thompson, Diegnan, Singleton, Turner,
Greenstein and Pou**

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on March 21, 2022, with amendments.



(Sponsorship Updated As Of: 6/16/2022)

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

44 (1) failed to follow, maintain, and enforce protocols

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.

1 promulgated by the Commissioner of Health or by Executive Order
2 of the Governor in response to the COVID-19 public health
3 emergency concerning social distancing and the use of personal
4 protective equipment; or

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6 zoning regulations or ordinances not otherwise directly superseded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

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

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

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

19

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

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

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

27

28 4. (New section) Notwithstanding any provision of law to the
29 contrary, while P.L.2021, c.15 is in effect, the installation and
30 continuous use of tents, canopies, umbrellas, tables, chairs, and
31 other fixtures on private property or public property or right of way
32 designated by a municipality pursuant to P.L.2021, c.15 and P.L. ,

33 c. (pending before the Legislature as this bill), shall be a
34 permitted use provided that the tent, canopy, umbrella, table, chairs,
35 or other fixture conforms to all applicable provisions of the State
36 Uniform Construction Code and Fire Prevention Subcode, which
37 have been adopted by the Commissioner of Community Affairs
38 pursuant to P.L.1975, c.217 (C.52:27D-119, et seq.). The permitted
39 use of tents, canopies, umbrellas, tables, chairs, and other fixtures
40 allowed by this section shall be limited to the timeframe
41 encompassing the first day of April through the first day of
42 December for each year in which P.L.2021, c.15 is in effect. Any
43 administrative rule or regulation which limits the use of tents,
44 canopies, umbrellas, tables, chairs and other fixtures to 180 days or
45 less ¹during the time frame encompassing the first day of April
46 through the first day of December¹ shall be inapplicable during the
47 time that P.L.2021, c.15 is in effect. ¹Notwithstanding the

1 foregoing, any administrative rule or regulation which governs the
2 use of tents, canopies, umbrellas, tables, chairs, and other fixtures
3 on private or public property or right of way designated by a
4 municipality pursuant to P.L.2021, c.15 and P.L. , c. (pending
5 before the Legislature as this bill) for the time period encompassing
6 the second day of December through the last day of March shall not
7 be impacted by P.L. , c. (pending before the Legislature as this
8 bill).¹
9
10 5. This act shall take effect immediately.