

SENATE BILL NO. 3418
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 3418 (First Reprint) with my recommendations for reconsideration.

This bill creates two exceptions to the existing law that prohibits recently built permanent structures on preserved farmland from being used to host special occasion events ("SOEs"). The first exception allows wineries to host SOEs in new buildings if the structure is used primarily to facilitate the testing, sale, consumption, or marketing of wine and wine-related products. The second exception allows any farm to host an SOE in a new building if that farm earns no more than 10 percent of its total annual revenue from hosting SOEs. Wineries and farms wishing to host SOEs on preserved farmland must meet the application requirements in the existing law, as amended by this bill.

I deeply cherish our State's wineries and farms. In addition to providing the best local wines, fruits, and vegetables, they attract people from nearby states who want to experience the seasonal joys of apple picking, hayrides, corn mazes, and wine tastings in New Jersey. Thanks to our local producers, we can proudly claim the sobriquet "Garden State" and are continually enriched by a more diverse, sustainable, and reliable food system.

These farms and wineries can also serve as a picturesque setting for SOEs, such as weddings, fundraisers, musical performances, and cultural events. I recognize that SOEs allow our wineries and farms to earn supplemental income and develop a larger market for their products beyond ordinary sales. They also bring more visitors to New Jersey through agritourism, which boosts our economy.

At the same time, it is vitally important to uphold the purpose of our farmland preservation laws. Indeed, without the strong protections for farmland preservation that we have long supported

here in New Jersey, there would be much less land dedicated to agriculture. Under our statutory framework, farmland is permanently preserved through development easements, which the State Agricultural Development Committee ("SADC"), counties, municipalities, or nonprofit organizations purchase using constitutionally dedicated taxpayer dollars. Through these programs, the residents of New Jersey are supporting the overall goal of ensuring land remains protected for farming, rather than being developed for other purposes.

For this reason, in 2022, I conditionally vetoed Senate Bill No. 757 (Third Reprint) ("S757"), which extended the SOE pilot program, prior to signing it into law. My revisions to S757 incorporated several measures to ensure that preserved farmland continues to be used primarily for agriculture or horticulture. Among those measures was a "restriction prohibiting a permanent structure constructed fewer than five years prior to the date of the SOE application from being used for the purpose of holding an SOE." Governor's Conditional Veto Statement to S757 (September 22, 2022). This provision was intended to protect against the construction of new buildings for the purpose of hosting SOEs, consistent with the objectives of our farmland preservation laws and regulations. While I appreciate the Legislature's desire to ease this and other restrictions on hosting SOEs at wineries and certain farms, I feel compelled to add safeguards - recommended by the SADC and the New Jersey Department of Agriculture - to the exceptions proposed in this bill so that taxpayer-funded preserved farmland continues to be used primarily for agriculture or horticulture.

First, with respect to wineries, I am recommending enhanced requirements to verify that a recently constructed building being used to host SOEs was - as the bill contemplates - constructed for, and continues to have the primary purpose of, the production, packaging, processing, or marketing of the winery's products. This includes requiring that applicants seek approval for SOEs each year, and that construction of a new structure be approved and completed

before SOEs may be approved to take place there. Other recommended revisions to the winery exception aim to strengthen the procedure governing a winery's application to use a recently built structure to host SOEs.

I am also recommending several revisions to the exception that permits SOEs on preserved farmland if the revenue from SOEs does not exceed 10 percent of a farm's total annual revenue. These changes are intended to provide accountability measures necessary to uphold compliance with and the objectives of our farmland preservation laws, including annual certifications, appropriate penalties for violation, and audits necessary to verify compliance with the 10 percent revenue threshold.

Finally, I am recommending two technical changes to bring the bill in closer alignment with legislative intent.

Therefore, I herewith return Senate Bill No. 3418 (First Reprint) and recommend that it be amended as follows:

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| <u>Page 3, Section 1, Line 34:</u> | After "structure" insert "was constructed, and" |
| <u>Page 3, Section 1, Line 34:</u> | Delete "by a winery," |
| <u>Page 3, Section 1, Line 35:</u> | Delete "the 'Right to Farm Act,'" and insert "section 6 of" |
| <u>Page 3, Section 1, Lines 35-36:</u> | Delete "(C.4:1C-1 et seq.)," and insert "(C.4:1C-9), by a winery" |
| <u>Page 3, Section 1, Line 36:</u> | Delete "testing" and insert "tasting" |
| <u>Page 3, Section 1, Line 37:</u> | After "consumption," insert "production, packaging," |
| <u>Page 3, Section 1, Line 38:</u> | After "products" insert ", as determined by the grantee" |
| <u>Page 5, Section 1, Line 15:</u> | After "thereto." insert "Notwithstanding any law, regulation, or prior practice to the contrary that permitted multi-year approvals for special occasion events, special occasion events occurring in structures pursuant to subparagraph (b) of paragraph (5) of subsection b. of this section shall be reviewed, and approved or denied, annually by the grantee." |
| <u>Page 5, Section 1, Line 26:</u> | After "therein." insert "Special occasion events occurring" |

pursuant to sub-subparagraph (i) of subparagraph (b) of paragraph (5) of subsection b. of this section may not be approved prior to completed construction of the structure in which the special occasion event is to occur and final approval by the applicable construction office."

Page 6, Section 1, Line 23:

After "areas." insert "g. (1) A county agriculture development board or the State Agriculture Development Committee may order, and specify the scope of, an audit of the owner or operator of any farm engaged in conducting special occasion events on preserved farmland, for the purpose of determining compliance with sub-subparagraph (ii) of subparagraph (b) of paragraph (5) of subsection b. of this section. The audit shall be conducted by an independent certified public accountant approved by the board or the committee, and the reasonable costs thereof shall be paid by the owner or operator of the farm. A county agriculture development board, or the committee, may establish a list of independent certified public accountants approved for the purposes of conducting an audit pursuant to this paragraph. Copies of the audit shall be submitted to the board and the committee. In conjunction with an audit ordered pursuant to this paragraph, a board or the committee may request, and the farm shall then submit, additional documentation as may be necessary for the board or the committee to verify compliance with sub-subparagraph (ii) of subparagraph (b) of paragraph (5) of subsection b. of this section. An owner or operator of a farm engaged in conducting special occasion events on preserved farmland shall not be subject to an audit authorized pursuant to this paragraph more than once per year without good cause demonstrated by the applicable board or the committee.

(2) An owner or operator of a farm engaged in conducting special occasion events on preserved farmland pursuant to sub-subparagraph (ii) of subparagraph (b) of paragraph (5) of subsection b. of this section shall annually certify

to the county agriculture development board that the special occasion events together account for no more than 10 percent of the annual gross income of the farm during the prior calendar year. The board shall forward the certification of annual gross income to the committee.

h. In addition to any other penalties provided by law:

(1) A person who commits a second or subsequent violation of sub-subparagraph (i) of subparagraph (b) of paragraph (5) of subsection b. of this section shall be liable for double the maximum civil administrative penalty that may be assessed for any second or subsequent violation under subsection a. of section 5 of P.L.2023, c.9 (C.4:1C-32.19).

(2) A person who commits a violation of sub-subparagraph (ii) of subparagraph (b) of paragraph (5) of subsection b. of this section shall be liable for forfeiture of revenues earned from special events that exceed 10 percent of the farm's total annual revenues, which penalty shall be collected and enforced pursuant to section 5 of P.L.2023, c.9 (C.4:1C-32.19)."

Respectfully,

/s/ Philip D. Murphy

Governor

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Attest:

/s/ Kate E. McDonnell

Chief Counsel to the Governor