

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3608 STATE OF NEW JERSEY 221st LEGISLATURE

DATED: OCTOBER 16, 2024

SUMMARY

- Synopsis:** Permits restaurants and certain alcoholic beverage retailers to conduct business within designated outdoor space or on public sidewalk.
- Type of Impact:** Annual State and municipal revenue and expenditure increases.
- Agencies Affected:** Department of Law and Public Safety; Department of Transportation; and municipalities.

Office of Legislative Services Estimate

| Fiscal Impact | |
|--|---------------|
| Annual State and Local Expenditure Increases | Indeterminate |
| Annual State and Local Revenue Increases | Indeterminate |

- The Office of Legislative Services (OLS) finds that the bill may result in indeterminate increases in annual State and municipal revenues and expenditures. The OLS estimates the bill may increase expenses for the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, the Department of Transportation, and municipalities. Further, the bill may result in an indeterminate impact on potential State and municipal revenues collected from the total number of premises expansion permits issued annually; future license fees; sales tax on products sold; and any penalty collections from certain restaurants, bars, distilleries, and breweries that expand their premises.
- P.L.2022, c.85 extended the expiration date of the COVID-19 Expansion of Premise Permits, issued pursuant to Special Ruling No. 2020-10 by the Division of Alcoholic Beverage Control, until November 30, 2024. This bill establishes a permanent Expansion of Premise Permit licensure and application process.
- The bill requires a zoning officer to approve a compliant application, along with other documentation as may be required by the municipality, within 15 business days of being submitted. The OLS does not know the current fees, if any, charged by municipalities to process these applications.

BILL DESCRIPTION

This bill permits restaurants and certain alcoholic beverage retailers and manufacturers to extend their premises to certain outdoor locations. Under the bill, owners and operators of these businesses may be permitted to use outdoor spaces that they own or lease and that are located on the business premises, contiguous to the business premises, or in a non-contiguous location as an extension of their business premises for the purpose of conducting sales of food and beverages, including alcoholic beverages if licensed.

The bill requires the Director of the Division of Alcoholic Beverage Control to issue to the holder of an alcoholic beverage manufacturer license or retail consumption license a premises expansion permit upon application by the license holder. The permit is to entitle the license holder to sell alcoholic beverages in certain outdoor spaces, including walkways and pedestrian malls, as an extension of their business premises. The director would then transfer the application for premises expansion permit to the municipal clerk and police chief of the municipal governing body in which the manufacturer license or retail consumption license is situated. The director would not approve or deny an application until receipt of an endorsement or approval by the appropriate governing body officials. The holder of a temporary premises expansion permit issued by the director prior to the bill's enactment would be entitled to convert that temporary permit into a permanent permit issued under the bill.

In addition, the bill requires owners and operators of those establishments seeking to utilize outdoor spaces or public sidewalks, including pedestrian walkways and pedestrian malls, as extensions of their business premises to file an application with the municipal zoning officer, including information concerning the use of the outdoor spaces or public sidewalks, as appropriate, pursuant to the requirements provided in the bill. The bill requires a zoning officer to approve a compliant application within 15 business days of being submitted. An appeal to any approval, denial, revocation, or suspension may be filed through the municipal clerk with the governing body of the municipality. The governing body is required to conduct a hearing and render a decision within 30 days of the filing of the appeal.

A permit for the use of the State rights-of-way is to be issued upon application and approval of the New Jersey Department of Transportation. For the purposes of locally-owned roads that intersect the State highway system, setbacks from the State right-of-way line will be 50 feet from April 1 to October 31, and 100 feet from November 1 to March 31.

The bill provides that all other municipal ordinances pertaining to sanitation, property maintenance, noise, business days and hours of operation, and days and hours of service of alcoholic beverages are to apply, unless specifically suspended or modified by the municipality or specifically prohibited by the provisions of the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will result in indeterminate increases in annual State and municipal revenues and expenditures. The OLS estimates the bill may increase expenses for the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, the Department of

Transportation, and municipalities. Further, the bill may result in an indeterminate impact on potential State and municipal revenues collected from the total number of licenses issued annually; future license fees; sales tax on products sold; and any penalty collections from certain restaurants, bars, distilleries, and breweries that expand their premises.

P.L.2022, c.85 extended the expiration date of the COVID-19 Expansion of Premise Permits, issued under Special Ruling No. 2020-10 by the Division of Alcoholic Beverage Control, until November 30, 2024. The extension is set to expire, and this bill establishes a permanent Expansion of Premise Permit licensure and application process. On October 19, 2020, Special Ruling 2020-21 issued by the division allowed for over 2,300 permits to be extended to March 31, 2021. The OLS has not received an updated number of the permits issued since March of 2021.

State Expenditure Impacts: Currently, once a premises expansion permit is approved by a municipal government, the Director of the Division of Alcoholic Beverage Control issues the holder of an alcoholic beverage manufacturer license or retail consumption license a premises expansion permit upon application by the license holder. Those license holders who held a temporary expansion permit issued pursuant to the director's special ruling (2020-10) at the time were entitled to convert the permit to an Expansion of Premise Permit. A permit issued to a restaurant without an alcoholic beverage retail license is permitted to renew annually.

Further, a permit for the use of the State rights-of-way is to be issued upon application and approval of the New Jersey Department of Transportation.

Depending on the resource allocation policies of the respective departments, the added workload may or may not augment State administrative expenditures. The OLS further indicates that this process has been in place for over four years, and it cannot predict how many additional establishments may consider this permit to expand their premises if the permit is made permanent.

Municipal Expenditure Impacts: The bill may increase costs to municipalities associated with the administration, regulation, and enforcement related to the premises expansion permits. Pursuant to the bill, a zoning officer is required to approve a compliant application within 15 business days of being submitted. An appeal to any approval, denial, revocation, or suspension may be filed through the municipal clerk with the governing body of the municipality. The governing body is required to conduct a hearing and render a decision within 30 days of the filing of the appeal.

The OLS notes the bill may impact municipal law enforcement resources, as there may be an increased need for enforcement of alcoholic beverage statutes and ordinances. Local governments may also incur nominal additional costs to ensure that health protocols are being adhered to at restaurants, bars, distilleries, and breweries with expanded premises.

State and Municipal Revenue Impacts: This bill may increase State revenue from the expansion of the sale of products in expanded businesses that obtain the permit. Additionally, the OLS anticipates that expansion of a premises would increase the number of patrons, thereby increasing the overall sale of alcohol beverage products and increasing the amount of State sales tax collected by the Division of Taxation in the Department of the Treasury.

The OLS does not have information on how many municipalities, if any, are charging application fees for the expansion permits or for the municipal zoning application. The OLS concludes that the bill could result in a potential indeterminate increase in municipal revenues if municipalities pass an ordinance allowing application fees to be charged, if they have not done so already.

Section: Law and Public Safety

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).