

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4190

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED JUNE 18, 2020

Sponsored by:

Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)
Assemblyman GORDON M. JOHNSON
District 37 (Bergen)

Co-Sponsored by:

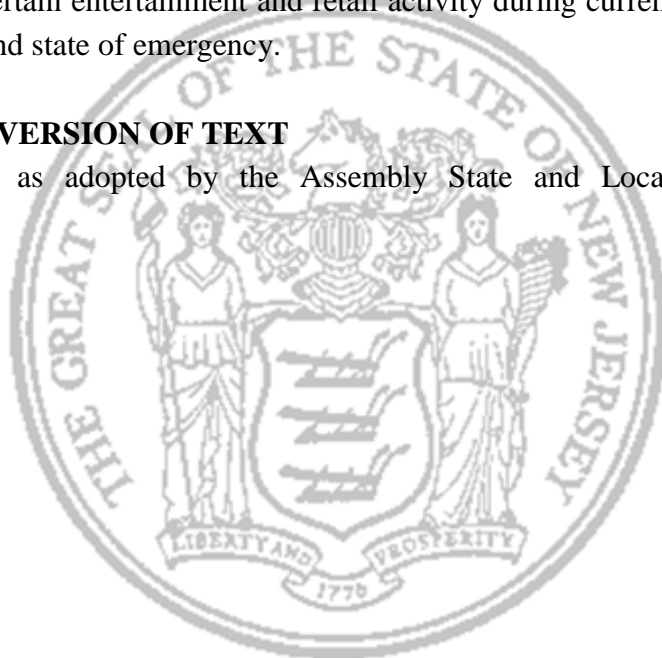
Assemblyman DePhillips, Assemblywoman Dunn, Assemblyman Peters,
Assemblywoman Murphy, Assemblymen Wirths, Space, Webber, Bergen,
DiMaio, Assemblywomen DiMaso, B.DeCroce, Chaparro, Assemblyman
Peterson, Assemblywoman Stanfield, Assemblymen Spearman, Thomson,
Giblin, Armato and Mazzeo

SYNOPSIS

Permits certain entertainment and retail activity during current public health emergency and state of emergency.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly State and Local Government Committee.



1 AN ACT expanding opportunities for restaurants, bars, and
2 breweries to provide outdoor service during the period of the
3 COVID-19 emergency.
4

5 BE IT ENACTED by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. a. Notwithstanding the provisions of any law to the
9 contrary, during the period that P.L. , c. (C.) (pending
10 before the Legislature as this bill) is in effect, the governing body of
11 a municipality, by resolution, may designate one or more days per
12 week, from Thursday through Sunday, during which any municipal
13 street or road, or county street or road, that traverses a business
14 district of the municipality, and any municipal or county parking lot
15 located in a business district, shall be closed to vehicular traffic and
16 shall be accessible by pedestrians only, so that the owners or
17 operators of restaurants, bars, and breweries as defined in this
18 section, located on those county or municipal streets or roads, and
19 near those parking lots, may use the streets or roads, sidewalks, and
20 parking lots of the business district as an extension of their business
21 premises for the purpose of conducting sales of food and beverages,
22 including alcoholic beverages if so licensed. Municipalities shall
23 require that any restaurants, bars, or breweries, operating pursuant
24 to this subsection shall follow, maintain and enforce social
25 distancing and personal protective equipment use protocols
26 promulgated by the Commissioner of Health or Executive Order of
27 the Governor in response to the COVID-19 pandemic.

28 For the purposes of P.L. , c. (C.) (pending before the
29 Legislature as this bill), “brewery” or “breweries” shall mean those
30 entities operating under a limited brewery license pursuant to
31 R.S.33:1-10.

32 A resolution adopted by the governing body of a municipality
33 pursuant to this subsection shall delineate the following
34 information:

35 (1) a detailed description of the municipality’s plan for the use
36 of the streets, roads, and parking lots to be closed, including, but
37 not limited to, the number of restaurants, breweries, and bars that
38 intend to use the closed roadways and parking lots for sales, and the
39 times of day that the sales shall begin and end;

40 (2) the municipality’s plan for the closure of the municipal or
41 county streets, roads, and parking lots and the diversion of traffic to
42 other municipal or county streets or roads and parking lots on the
43 dates set forth in the resolution adopted by the municipality; and

44 (3) measures to be taken by the municipal police department to
45 maintain the safety and security of municipal residents during the
46 closure of municipal and county roads, streets, and parking lots, for
47 the business activity permitted in this subsection.

1 b. A resolution adopted pursuant to subsection a. of this section
2 shall not permit a restaurant, bar, or brewery, to engage in the
3 practice newly enabled by the resolution unless and until the
4 restaurant, bar, or brewery, enters into an agreement with the
5 governing body of the municipality and, if county roads, streets, or
6 parking lots, are to be closed, the governing body of the county to
7 indemnify, defend, and hold harmless, the municipality and, if
8 applicable, the county, from any claims resulting from any actions
9 or inactions of the restaurant, bar or brewery, its staff, or its
10 customers during the dates specified in the resolution.

11 c. A municipality that has adopted a resolution pursuant to
12 subsection a. of this section that would close municipal streets,
13 roads, or parking lots, shall transmit a copy of the resolution, either
14 by fax or e-mail, to the clerk and the police chief of each adjacent
15 municipality, no later than two business days following the
16 adoption of the resolution. The county governing body, or a county
17 official designated by the governing body, shall review and approve
18 or reject the resolution not later than five business days next
19 following receipt of the resolution.

20 d. A municipality that has adopted a resolution pursuant to
21 subsection a. of this section that would close county streets, roads,
22 or parking lots, shall transmit a copy of the resolution, either by fax
23 or e-mail to the county governing body not later than two business
24 days following the adoption of the resolution. The county
25 governing body, or a county official designated by the governing
26 body, shall review and approve or reject the resolution not later than
27 five business days following receipt of the resolution. The closings
28 shall be deemed to be approved if the county governing body, or a
29 county official designated by the governing body, does not reject
30 the closings. Any approval or rejection shall be determined and
31 transmitted to the municipal clerk, either by fax or e-mail, not later
32 than five business days following receipt of the resolution. For the
33 purposes of this subsection, "county governing body" shall mean
34 the county executive in any county operating under the county
35 executive plan of the "Optional County Charter Law," P.L.1972,
36 c.154 (C.40:41A-1 et seq.), or the board of chosen freeholders in
37 any other county.

38 e. A municipality that has adopted a resolution pursuant to
39 subsection a. of this section shall provide a public notice to
40 businesses and residences located on the streets or roads, or near the
41 parking lots, to be closed pursuant to subsection a. of this section.
42 The public notice may be in the form of a mailed, e-mailed, or hand
43 delivered letter or a text, e-mail, or phone message transmitted via
44 electronic means through a municipality's emergency alert system
45 in addition to being posted on the municipality's Internet website.

46 f. A municipality may close a municipal street or road, a
47 county street or road, or a parking lot pursuant to subsection a. of
48 this section only if the municipal police department determines that

1 an alternative traffic pattern exists for motor vehicles to move
2 safely around the closed streets, roads, and parking lots, that the
3 closure of the county or municipal streets, roads, and parking lots
4 does not impede public safety or pedestrian safety in the
5 municipality, and that the closure of the county or municipal streets,
6 roads, or parking lots shall not result in truck or heavy equipment
7 traffic being diverted onto residential municipal or county streets,
8 roads, and parking lots on the dates, and during the periods of time,
9 that the business activity authorized in subsection a. of this section
10 takes place.

11 g. The municipal police department shall enforce all State and
12 local traffic laws on any municipal or county street, road, and
13 parking lot, on the dates, and during the periods of time, that the
14 business activity authorized in subsection a. of this section takes
15 place.

16
17 2. a. Notwithstanding the provisions of any law to the
18 contrary, during the period that P.L. , c. (C.) (pending
19 before the Legislature as this bill) is in effect, the owners and
20 operators of restaurants, bars, and breweries, as defined in section 1
21 of P.L. , c. (C.) (pending before the Legislature as
22 this bill), shall be permitted to use outdoor spaces, which they own
23 or lease and which are adjacent to their business premises, as an
24 extension of their business premises for the purpose of conducting
25 sales of food and beverages, including alcoholic beverages if so
26 licensed. For the purposes of this section, “outdoor spaces” shall
27 include patios and decks, both covered and uncovered, yards, and
28 parking lots, or a portion thereof.

29 b. Owners or operators of restaurants, bars, and breweries, as
30 defined in section 1 of P.L. , c. (C.) (pending
31 before the Legislature as this bill), desiring to utilize outdoor spaces
32 as defined in subsection a. of this section shall file an application
33 with the municipal zoning officer that includes a plan, sketch,
34 picture, or drawing, that depicts the design, dimensional boundaries,
35 and table and chair placement, of the outdoor spaces. In the case of
36 using the business premises’ parking lot for the service and sale of
37 food and beverages, including alcoholic beverages if so licensed,
38 the area to be used for such purposes shall not exceed 50 percent of
39 the parking lot’s total area and shall not encumber more than 50
40 percent of the lot’s parking spaces, unless the parking lot contains
41 less than five parking spaces, and shall not eliminate more than 50
42 percent of the total number of handicapped parking spaces in the
43 parking lot. Applications that are compliant with the provisions of
44 this section shall be approved by the zoning officer within five days
45 of submission, and the municipality may not charge a fee for either
46 accepting the application or issuing the approval.

47 c. Municipalities shall require that any restaurants, bars, or
48 breweries, operating pursuant to this section shall follow, maintain,

1 and enforce social distancing protocols and personal protective
2 equipment use protocols promulgated by the Commissioner of
3 Health or Executive Order of the Governor in response to the
4 COVID-19 pandemic.

5
6 3. The Director of the Division of Alcoholic Beverage Control
7 in the Department of Law and Public Safety shall issue a special
8 ruling within seven calendar days of the effective date of
9 P.L. , c. (C.) (pending before the Legislature as this
10 bill) pursuant to R.S.33:1-39 to entitle the holders of plenary retail
11 consumption licenses and limited brewery licenses to extend their
12 licensed premises to allow for the sale and consumption of
13 alcoholic beverages in public streets, roads, and parking lots, and
14 outdoor spaces as defined in section 2 of
15 P.L. , c. (C.) (pending before the Legislature as this
16 bill). The special ruling shall require that any restaurants, bars, or
17 breweries operating pursuant to this section shall follow, maintain,
18 and enforce social distancing and personal protective equipment use
19 protocols promulgated by the Commissioner of Health or Executive
20 Order of the Governor in response to the COVID-19 pandemic.
21 The special ruling shall not require licensees to submit an
22 application to, receive approval from, or pay a fee to either the
23 municipality or the Division of Alcoholic Beverage Control to
24 extend their licensed premises, other than that which is required by
25 subsection b. of section 2 of P.L. , c. (c.) (pending
26 before the Legislature as this bill), but shall require the that the
27 licensee notify the chief of police and municipal clerk not less than
28 48 hours prior to engaging in the business activity authorized in
29 P.L. , c (C.) (pending before the Legislature as this bill).
30 This special ruling shall be in effect only during the time period
31 established in section 6 of P.L. , c. (C.) (pending
32 before the Legislature as this bill).

33
34 4. Notwithstanding any provision of P.L. , c. (C.)
35 pending before the Legislature as this bill) to the contrary, all other
36 municipal ordinances pertaining to noise, business days and hours
37 of operation and days and hours of service of alcoholic beverages
38 shall apply, unless specifically suspended or modified by the
39 municipality. Municipalities are expressly permitted by
40 P.L. , c. (C.) (pending before the Legislature as
41 this bill) to either prohibit or limit the days and hours of any live
42 performances, including musical performances, and the playing or
43 projection of any content from a recording, streaming service or
44 television, cable or internet broadcasting service in outdoor spaces
45 as a condition of either the municipal resolution pursuant to section
46 1 of P.L. , c. (C.) (pending before the Legislature as
47 this bill) or the zoning approval pursuant to section 2 of

1 P.L. , c. (C.) (pending before the Legislature as this
2 bill).

3
4 5. Nothing in P.L. , c. (C.) (pending before the
5 Legislature as this bill) shall be interpreted or construed as
6 permitting or mandating the opening, expansion, or resumption of
7 unlimited operations of a restaurant, bar or brewery that is closed,
8 whether permanently or temporarily, or operating subject to
9 limitations on its operations, service, or hours, as a result of
10 disciplinary or legal sanctions imposed by, or entering into a
11 settlement agreement with, a court of the State of New Jersey, a
12 municipal court, the New Jersey Department of Law and Public
13 Safety, the New Jersey Division of Alcoholic Beverage Control, or
14 a municipal governing body acting as a local alcoholic beverage
15 control board, as applicable.

16
17 6. This act shall take effect immediately and shall expire on:
18 (1) the date of expiration, termination, or rescission of any and all
19 executive or administrative orders issued by the Governor or
20 Commissioner of Health establishing coronavirus-related indoor
21 service, occupancy or customer seating restrictions applicable to
22 restaurants, bars, or breweries; or (2) the first day of the seventh
23 month following the date on which the Governor declares that the
24 state of emergency has ended, whichever date occurs later.