

# ASSEMBLY, No. 5133

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED DECEMBER 10, 2020

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**Assemblyman NICHOLAS CHIARAVALLOTI**

**District 31 (Hudson)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Establishes requirements for restaurants to operate during public health emergency declared in response to coronavirus disease 2019 pandemic.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/13/2021)**

1 AN ACT concerning indoor consumption of food or beverages  
2 during the public health emergency declared in response to the  
3 coronavirus disease 2019 pandemic.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. a. During the public health emergency declared by the  
9 Governor in response to the coronavirus disease 2019 pandemic,  
10 any restaurant or dining establishment, or banquet or wedding  
11 venue, in any indoor area on its premises, shall limit the number of  
12 customers or patrons served up to:

13 (1) 25 percent of the establishment's capacity if the  
14 establishment does not certify as to the measures it is taking in  
15 accordance to paragraph (2) of this subsection to mitigate the risks  
16 of coronavirus disease 2019; or

17 (2) 50 percent of the establishment's capacity if:

18 (a) the establishment is in a region of the State that is designated  
19 by the Department of Health as having a coronavirus disease 2019  
20 activity level of moderate or lower based on the most up to date  
21 activity report issued by the Department of Health;

22 (b) the establishment certifies to the county board of health in  
23 which the restaurant is located that the establishment has:

24 (i) Installed barriers of plexi-glass, plastic, or some other  
25 material that has been approved by the commissioner between each  
26 table;

27 (ii) Limited parties dining together 10 or fewer individuals;

28 (iii) provided the county board of health with information on the  
29 restaurant's capacity at 100 percent, 50 percent, and 25 percent; and

30 (iv) Where there is a presumptive positive or positive case of an  
31 employee, guest, visitor, or vendor, shut down immediately to  
32 disinfect, notify the county board of health and all employees,  
33 guests, visitors, or vendors, while adhering to all confidentiality  
34 requirements in accordance with the federal "Americans with  
35 Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.) and any other  
36 applicable laws pertaining to privacy or confidentiality of medical  
37 information;

38 (c) the establishment creates and submits a certified coronavirus  
39 disease 2019 preparedness plan, in a form created by the  
40 Department of Health, to the county board of health, which  
41 includes:

42 (i) employee protocols on how to monitor for signs and  
43 symptoms of coronavirus disease 2019, including a policy for  
44 employees to report their signs and symptoms prior to entering the  
45 workplace and for employees to report when they are sick,

46 (ii) a policy on presumptive or actual positive coronavirus  
47 disease 2019 cases of any employee, guest, visitor or vendor that  
48 requires the business to suspend operations immediately for

1 cleaning and disinfection in accordance with Centers for Disease  
2 Control and Prevention (CDC) guidance prior to restarting  
3 operations;

4 (iii) an outline of its sick leave policy, including a certification  
5 of its compliance with all requirements under the "Family Leave  
6 Act," P.L.1989, c.261 (C.34:11B-1 et seq.), the federal "Family and  
7 Medical Leave Act of 1993," Pub.L.103-3  
8 (29 U.S.C. s.2601 et seq.), P.L.2018, c.10 (C.34:11D-1 et seq.),  
9 P.L.1948, c.110 (C.43:21-25 et seq.), to the extent those laws are  
10 applicable, and any other applicable State or federal laws regarding  
11 leave;

12 (iv) a policy to ensure adequate social distancing by maintaining  
13 a distance of at least six feet between individuals, or groups of  
14 individuals, in the establishment, whether the individuals are  
15 patrons or employees, to the extent possible;

16 (v) where it is not possible to maintain a distance of six feet  
17 between individuals, a policy to erect barriers between individuals,  
18 which shall include the type of barrier utilized,

19 (vi) limit to the number of patrons that may be seated together at  
20 the same time;

21 (vii) requiring each employee to wash hands immediately after  
22 entering the building and frequently throughout the employee's  
23 shift;

24 (viii) the installation of hand-sanitizer dispensers or stations at  
25 the entrance of the establishment and in areas throughout the  
26 establishment for employees and patrons to be used for hand  
27 hygiene in addition to soap and water in restrooms;

28 (ix) requiring masks for all employees who are in direct contact  
29 with patrons, making masks available to all employees at no cost to  
30 the employees, and requiring masks be worn by all patrons until  
31 drinks or meals arrive at the table;

32 (x) ventilation protocols that include the maintenance of all  
33 building systems and an ongoing assessment of the amount of fresh  
34 air and air recirculation in the establishment, and ensuring that  
35 ventilation systems are being properly used;

36 (xi) cleaning and disinfection protocols that identify who is  
37 cleaning and disinfecting if there is a presumptive or positive case  
38 of coronavirus disease 2019, require that there will be frequent  
39 cleaning and disinfecting of all food surfaces, including but not  
40 limited to, equipment, including restrooms, high touch areas,  
41 meeting rooms, host stations, railings, credit card readers, counters,  
42 and menus, and require that tables, chairs, and other shared items  
43 will be cleaned and disinfected after each use;

44 (xii) signage protocols to inform customers to remain at least six  
45 feet apart while in the establishment, and signage at the entrance  
46 with the certification that the establishment has met the  
47 requirements of this act is allowed to serve patrons at 50 percent  
48 capacity; and

1 (xiii) communication and training protocols to ensure that all  
2 employees have access to the preparedness plan required under this  
3 paragraph and that all employees are properly trained to comply  
4 with the preparedness plan;

5 (d) the establishment agrees to conduct contact tracing in the  
6 event or a presumptive positive case or a positive case, which shall  
7 include such preemptive measures as maintaining records of the  
8 names and contact information of all persons who enter the  
9 establishment; and

10 (e) the establishment certifies that it is in compliance with all  
11 other applicable State and federal laws.

12 b. (1) A restaurant or dining establishment may submit an  
13 application to operate at 50 percent capacity indoors at any time to  
14 the county board of health, which shall review and determine  
15 eligibility to operate at 50 percent capacity within seven days of  
16 receipt of the establishment's application.

17 c. If a region's activity level of coronavirus disease 2019  
18 increases above moderate as determined in the Department of  
19 Health's "Covid-19 Activity Report," all establishments within the  
20 region shall decrease their indoor operations to a maximum of 25  
21 percent capacity of the establishment's capacity.

22 d. Any person may report a suspected violation of this act to  
23 the appropriate county board of health. The board of health or  
24 county health department to which the violation was reported shall  
25 investigate the alleged violation. If it is determined that the  
26 establishment violated the provisions of this act, the county board  
27 of health shall have the discretion to reduce the capacity of the  
28 establishment to 25 percent until the violation is remediated to the  
29 satisfaction of the county board of health.

30 e. The Department of Health shall routinely update and publish  
31 its "Covid-19 Activity Level Report" and distribute the report, as  
32 updated, to all the county boards of health in a timely manner.

33 This department shall post this information on its website and  
34 report its findings to each county on a monthly basis.

35 f. Nothing in this act shall be construed to relieve a restaurant  
36 or dining establishment, or a banquet or wedding venue, of any  
37 requirement established by any other law or regulation.

38 g. Notwithstanding the provisions of this act, if the Governor  
39 issues an executive order permitting restaurants, dining  
40 establishments, or banquet or wedding venues, to operate at a  
41 higher capacity than 25 percent indoors without compliance with  
42 the requirements of this act, the requirements of this act shall not  
43 prohibit such establishments from operating in accordance with the  
44 Governor's executive order.

45 h. The Commissioner of Health, in consultation with the  
46 Commissioner of Labor and Workforce Development shall establish  
47 rules and regulations necessary to implement the provisions of this  
48 act.

1       2. This act shall take effect immediately and shall expire upon  
2 the termination of the public health emergency and any extensions  
3 thereof declared by the Governor in response to the coronavirus  
4 disease 2019 pandemic.

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STATEMENT

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9       This bill provides for the operation of indoor food or beverage  
10 establishments during the public health emergency declared in  
11 response to the coronavirus disease 2019 pandemic. Restaurants or  
12 dining establishments, or banquet or wedding venues, are required  
13 to limit the number of customers or patrons served indoors to up to  
14 25 percent of the establishment's capacity without taking any  
15 additional measures to mitigate the risks of coronavirus disease  
16 2019 required in the bill of an establishment serving patrons indoors  
17 up to 50 percent of the establishment's capacity.

18       An establishment in a region of the State that is designated by  
19 the Department of Health as having a coronavirus disease 2019  
20 activity level of moderate or lower based on the most up to date  
21 activity report issued by the department is permitted to serve  
22 customers or patrons indoors up to 50 percent of the establishment's  
23 capacity if the establishment certifies to the county board of health  
24 that the establishment has instituted:

25       (i) employee protocols on how to monitor for signs and  
26 symptoms of coronavirus disease 2019, including a policy for  
27 employees to report their signs and symptoms prior to entering the  
28 workplace and for employees to report when they are sick,

29       (ii) a policy on presumptive or actual positive coronavirus  
30 disease 2019 cases of any employee, guest, visitor or vendor that  
31 requires the business to suspend operations immediately for  
32 cleaning and disinfection in accordance with Centers for Disease  
33 Control and Prevention (CDC) guidance prior to restarting  
34 operations;

35       (iii) an outline of its sick leave policy, including a certification  
36 of its compliance with all requirements under the State "Family  
37 Leave Act," the federal "Family and Medical Leave Act of 1993,"  
38 P.L.2018, c.10 (C.34:11D-1 et seq.), and P.L.1948, c.110 (C.43:21-  
39 25 et seq.), to the extent those laws are applicable, and any other  
40 applicable State or federal laws regarding leave;

41       (iv) a policy to ensure adequate social distancing by maintaining  
42 a distance of at least six feet between individuals, or groups of  
43 individuals, in the establishment, whether the individuals are  
44 patrons or employees, to the extent possible;

45       (v) where it is not possible to maintain a distance of six feet  
46 between individuals, a policy to erect barriers between individuals,  
47 which shall include the type of barrier utilized,

- 1 (vi) a limit to the number of individuals in a restroom at the  
2 same and a limit to the number of patrons that may be seated  
3 together at the same time;
- 4 (vii) requiring each employee to wash hands immediately after  
5 entering the building and frequently throughout the employee's  
6 shift;
- 7 (viii) the installation of hand-sanitizer dispensers or stations at  
8 the entrance of the establishment and in areas throughout the  
9 establishment for employees and patrons to be used for hand  
10 hygiene in addition to soap and water in restrooms;
- 11 (ix) requiring masks for all employees when employees are in  
12 direct contact with patrons, making masks available to all  
13 employees at no cost to the employees, and requiring masks be  
14 worn by all patrons until drinks or meals arrive at the table;
- 15 (x) ventilation protocols that include the maintenance of all  
16 building systems and an ongoing assessment of the amount of fresh  
17 air and air recirculation in the establishment, and ensuring that  
18 ventilation systems are being properly used;
- 19 (xi) cleaning and disinfection protocols that identify who is  
20 cleaning and disinfecting if there is a presumptive or positive case  
21 of coronavirus disease 2019, require that there will be frequent  
22 cleaning and disinfecting of all food surfaces, including but not  
23 limited to, equipment, including restrooms, high touch areas,  
24 meeting rooms, host stations, railings, credit card readers, counters,  
25 and menus, and require that tables, chairs, and other shared items  
26 will be cleaned and disinfected after each use;
- 27 (xii) signage protocols to inform customers to remain at least six  
28 feet apart while in the establishment, and signage at the entrance  
29 with the certification that the establishment has met the  
30 requirements of the bill is allowed to serve patrons at 50 percent  
31 capacity; and
- 32 (xiii) communication and training protocols to ensure that all  
33 employees have access to the preparedness plan required under the  
34 bill and that all employees are properly trained to comply with the  
35 preparedness plan.
- 36 In addition, each establishment is required to certify to the  
37 county board of health in which the restaurant is located that the  
38 establishment has:
- 39 (i) Installed barriers of plexi-glass, plastic, or some other  
40 material that has been approved by the commissioner between each  
41 table;
- 42 (ii) Limited parties dining together 10 or fewer individuals;
- 43 (iii) provided the county board of health with information on the  
44 restaurant's capacity at 100 percent, 50 percent, and 25 percent; and
- 45 (iv) Where there is a presumptive positive or positive case of an  
46 employee, guest, visitor, or vendor, shut down immediately to  
47 disinfect, notify the county board of health and all employees,  
48 guests, visitors, or vendors, while adhering to all confidentiality

1 requirements in accordance with the federal "Americans with  
2 Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.) and any other  
3 applicable laws pertaining to privacy or confidentiality of medical  
4 information.

5 If a region's activity level of coronavirus disease 2019 increases  
6 above moderate as determined in the Department of Health's  
7 "Covid-19 Activity Report," all establishments within the region are  
8 required to decrease their indoor operations to a maximum of 25  
9 percent capacity of the establishment's capacity.

10 Any person may report a suspected violation of the bill to the  
11 county board of health. The county board of health to which the  
12 violation was reported will investigate the alleged violation. If it is  
13 determined that the establishment violated the provisions of the bill,  
14 the county board of health will have the discretion to reduce the  
15 capacity of the establishment to 25 percent until the violation is  
16 remediated to the satisfaction of the county board of health.

17 Nothing in this bill will be construed to relieve an establishment  
18 of any requirement established by any other law or regulation.

19 The bill provides that the Commissioner of Health, in  
20 consultation with the Commissioner of Labor and Workforce  
21 Development, will establish rules and regulations necessary to  
22 implement the provisions of this bill.