

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 5133**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

ADOPTED JANUARY 13, 2021

**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)**

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**Assemblymen Moen, Mazzeo, Assemblywoman Pintor Marin,  
Assemblymen McGuckin, Catalano, Holley, Thomson, Dancer, Stanley,  
Calabrese, Assemblywoman Vainieri Huttle, Assemblyman Johnson,  
Assemblywomen Jimenez, Mosquera and Assemblyman Spearman**

**SYNOPSIS**

Expands indoor capacity for food or beverage establishments and banquet and wedding venues under certain circumstances during coronavirus disease 2019 pandemic.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on March 17, 2021, with amendments.

(Sponsorship Updated As Of: 3/22/2021)

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, any  
10 food or beverage establishment, or banquet or wedding venue, in any  
11 indoor area on its premises, shall limit the number of customers or  
12 patrons served up to:

13 (1) <sup>1</sup>~~25 percent~~ the percentage<sup>1</sup> of the establishment or venue's  
14 capacity <sup>1</sup>as permitted by the Governor in an active executive order  
15 issued in response to the coronavirus disease 2019 pandemic<sup>1</sup> if the  
16 establishment or venue does not certify as to the measures it is taking  
17 in accordance to paragraph (2) of this subsection to mitigate the risks  
18 of coronavirus disease 2019; or

19 (2) <sup>1</sup>~~50 percent of the establishment or venue's~~ full<sup>1</sup> capacity if:

20 (a) the establishment or venue is in a region of the State that is  
21 designated by the Department of Health as having a coronavirus  
22 disease 2019 activity level of <sup>1</sup>~~moderate or lower~~ low<sup>1</sup> based on the  
23 most up to date activity report issued by the Department of Health;

24 (b) the establishment or venue certifies to the county board of  
25 health in which the establishment or venue is located that the  
26 establishment has:

27 (i) installed barriers of plexi-glass, plastic, or some other material  
28 that has been approved by the commissioner between each table;

29 (ii) limited parties dining together to 10 or fewer individuals;

30 (iii) provided the county board of health with information on the  
31 establishment or venue's capacity at 100 percent, 50 percent, and 25  
32 percent; and

33 (iv) where there is a presumptive positive or positive case of an  
34 employee, guest, visitor, or vendor, shut down immediately to  
35 disinfect, notify the county board of health and all employees, guests,  
36 visitors, or vendors, while adhering to all confidentiality requirements  
37 in accordance with the federal "Americans with Disabilities Act of  
38 1990" (42 U.S.C. s.12101 et seq.) and any other applicable laws  
39 pertaining to privacy or confidentiality of medical information;

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

43 (i) employee protocols on how to monitor for signs and symptoms  
44 of coronavirus disease 2019, including a policy for employees to

**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:

<sup>1</sup>Assembly AAP committee amendments adopted March 17, 2021.

- 1 report their signs and symptoms prior to entering the workplace and  
2 for employees to report when they are sick<sup>1</sup> [1];<sup>1</sup>
- 3 (ii) a policy on presumptive or actual positive coronavirus disease  
4 2019 cases of any employee, guest, visitor or vendor that requires the  
5 business to suspend operations immediately for cleaning and  
6 disinfection in accordance with Centers for Disease Control and  
7 Prevention (CDC) guidance prior to restarting operations;
- 8 (iii) an outline of its sick leave policy, including a certification of  
9 its compliance with all requirements under the "Family Leave Act,"  
10 P.L.1989, c.261 (C.34:11B-1 et seq.), the federal "Family and Medical  
11 Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et seq.), P.L.2018,  
12 c.10 (C.34:11D-1 et seq.), P.L.1948, c.110 (C.43:21-25 et seq.), to the  
13 extent those laws are applicable, and any other applicable State or  
14 federal laws regarding leave;
- 15 (iv) a policy to ensure adequate social distancing by maintaining a  
16 distance of at least six feet between individuals, or groups of  
17 individuals, in the establishment or venue, whether the individuals are  
18 patrons or employees, to the extent possible;
- 19 (v) where it is not possible to maintain a distance of six feet  
20 between individuals, a policy to erect barriers between individuals,  
21 which shall include the type of barrier utilized;
- 22 (vi) limit to the number of patrons that may be seated together at  
23 the same time;
- 24 (vii) requiring each employee to wash hands immediately after  
25 entering the building and frequently throughout the employee's shift;
- 26 (viii) the installation of hand-sanitizer dispensers or stations at the  
27 entrance of the establishment or venue and in areas throughout the  
28 establishment or venue for employees and patrons to be used for hand  
29 hygiene in addition to soap and water in restrooms;
- 30 (ix) requiring masks for all employees who are in direct contact  
31 with patrons, making masks available to all employees at no cost to the  
32 employees, and requiring masks be worn by all patrons until drinks or  
33 meals arrive at the table;
- 34 (x) ventilation protocols that include the maintenance of all  
35 building systems and an ongoing assessment of the amount of fresh air  
36 and air recirculation in the establishment or venue, and ensuring that  
37 ventilation systems are being properly used;
- 38 (xi) cleaning and disinfection protocols that identify who is  
39 cleaning and disinfecting if there is a presumptive or positive case of  
40 coronavirus disease 2019, require that there will be frequent cleaning  
41 and disinfecting of all food surfaces, including but not limited to,  
42 equipment, including restrooms, high touch areas, meeting rooms, host  
43 stations, railings, credit card readers, counters, and menus, and require  
44 that tables, chairs, and other shared items will be cleaned and  
45 disinfected after each use;
- 46 (xii) signage protocols to inform customers to remain at least six  
47 feet apart while in the establishment or venue, and signage at the  
48 entrance with the certification that the establishment or venue has met

1 the requirements of this act is allowed to serve patrons at <sup>1</sup>~~50~~  
2 percent] full<sup>1</sup> capacity; and

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

7 (d) with respect to customers who dine in the establishment or  
8 venue and not those who order takeout or delivery from the  
9 establishment or venue, the establishment or venue agrees to conduct  
10 contact tracing in the event of a presumptive positive case or a positive  
11 case, which shall include such preemptive measures as maintaining  
12 records of the names and contact information of all persons who enter  
13 the establishment or venue; and

14 (e) the establishment or venue certifies that it is in compliance  
15 with all other applicable State and federal laws.

16 b. A food or beverage establishment, or banquet or wedding  
17 venue, may submit an application to operate at 50 percent <sup>1</sup>~~or full~~<sup>1</sup>  
18 capacity indoors at any time to the county board of health, which shall  
19 review and determine eligibility to operate at 50 percent <sup>1</sup>~~or full~~<sup>1</sup>  
20 capacity<sup>1</sup>, as is applicable based on the COVID-19 activity level in  
21 which the establishment or venue is located,<sup>1</sup> within <sup>1</sup>~~seven~~ <sup>1</sup>14<sup>1</sup>  
22 days of receipt of the establishment or venue's application. <sup>1</sup>If the  
23 county board of health determines that the establishment or venue has  
24 submitted insufficient documentation for a determination of eligibility,  
25 then the establishment or venue shall have seven days from the date of  
26 the board's notice of insufficient information to provide the necessary  
27 documentation.<sup>1</sup>

28 c. If a region's activity level of coronavirus disease 2019  
29 increases above <sup>1</sup>~~moderate~~ <sup>1</sup>low but no higher than moderate<sup>1</sup> as  
30 determined in the Department of Health's "Covid-19 Activity Report,"  
31 and <sup>1</sup>an establishment or venue complies with the certification and  
32 other requirements established under paragraph (2) of subsection a. of  
33 this section,<sup>1</sup> the establishment all establishments or venues within the  
34 region shall ~~decrease~~ maintain their indoor operations to a  
35 maximum of <sup>1</sup>~~25~~ <sup>1</sup>50<sup>1</sup> percent capacity of the establishment or  
36 venue's capacity.

37 d. Any person may report a suspected violation of this act to the  
38 appropriate county board of health. The board of health or county  
39 health department to which the violation was reported shall investigate  
40 the alleged violation. If it is determined that the establishment or venue  
41 violated the provisions of this act, the county board of health shall  
42 have the discretion to reduce the capacity of the establishment or  
43 venue <sup>1</sup>~~to 25 percent~~<sup>1</sup> until the violation is remediated to the  
44 satisfaction of the county board of health. <sup>1</sup>As an alternative to a  
45 reduction in capacity, a county board of health may issue a stop-work  
46 order to an establishment or venue in violation of this act. The order  
47 shall remain in effect until the county board of health issues an order

1 releasing the stop-work order upon finding that the establishment or  
2 venue is in compliance with this act.<sup>1</sup>

3 e. The Department of Health shall routinely update and publish  
4 its “Covid-19 Activity Level Report” and distribute the report, as  
5 updated, to all the county boards of health in a timely manner.

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

8 f. Nothing in this act shall be construed to relieve a food or  
9 beverage establishment, or a banquet or wedding venue, of any  
10 requirement established by any other law or regulation.

11 g. Notwithstanding the provisions of this act, if the Governor  
12 issues an executive order permitting food or beverage establishments,  
13 or banquet or wedding venues, to operate at a higher capacity <sup>1</sup>【than  
14 25 percent】<sup>1</sup> indoors without compliance with the requirements of this  
15 act, the requirements of this act shall not prohibit such establishments  
16 or venues from operating in accordance with the Governor’s executive  
17 order.

18 h. The Commissioner of Health, in consultation with the  
19 Commissioner of Labor and Workforce Development shall establish  
20 rules and regulations necessary to implement the provisions of this act.

21 <sup>1</sup>A county board of health may request assistance from the  
22 Departments of Health and Labor and Workforce Development, or  
23 appropriate political subdivisions of the State in implementing the  
24 provisions of this act.<sup>1</sup>

25 i. As used in this act, and notwithstanding any law, rule, or  
26 regulation to the contrary, “food or beverage establishment” includes  
27 restaurants, cafeterias, dining establishments, and food courts, with or  
28 without a liquor license, bars, and all other holders of a liquor license  
29 with retail consumption privileges.

30

31 2. This act shall take effect immediately and shall expire on the  
32 later of:

33 (1) the date of expiration, termination, or rescission of any and  
34 all executive or administrative orders issued by the Governor or  
35 Commissioner of Health establishing coronavirus-related occupancy  
36 or customer seating restrictions applicable to food or beverage  
37 establishments or venues; or

38 (2) the first day of the seventh month next following the date on  
39 which the Governor declares that the state of emergency has ended.