

[Second Reprint]

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

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

ADOPTED JANUARY 13, 2021

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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 Senate Health, Human Services and Senior Citizens Committee on May 6, 2021, with amendments.

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

1 AN ACT concerning indoor <sup>2</sup>**[consumption of food or beverages]**  
2 capacity for food and dining establishments and banquet and  
3 wedding venues<sup>2</sup> during <sup>2</sup>**[the public health emergency declared**  
4 **in response to]**<sup>2</sup> the coronavirus disease 2019 pandemic.

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

8  
9 1. a. During the public health emergency declared by the  
10 Governor in response to the coronavirus disease 2019 <sup>2</sup>(COVID-  
11 19)<sup>2</sup> pandemic, any food or beverage establishment, or banquet or  
12 wedding venue, in any indoor area on its premises, shall limit the  
13 number of customers or patrons served up to:

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

20 (2) <sup>1</sup>**[50 percent of the establishment or venue's]** full<sup>1</sup> capacity  
21 if:

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

27 (b) the establishment or venue certifies to the county board of  
28 health in which the establishment or venue is located that the  
29 establishment <sup>2</sup>or venue<sup>2</sup> has:

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

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

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

37 (iv) where there is a presumptive positive or positive case of  
38 <sup>2</sup>coronavirus disease 2019 in<sup>2</sup> an employee, guest, visitor, or  
39 vendor, shut down immediately to disinfect, notify the county board  
40 of health and all employees, guests, visitors, or vendors, while  
41 adhering to all confidentiality requirements in accordance with the  
42 federal "Americans with Disabilities Act of 1990" (42 U.S.C.  
43 s.12101 et seq.) and any other applicable laws pertaining to privacy  
44 or confidentiality of medical information;

**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.

<sup>2</sup>Senate SHH committee amendments adopted May 6, 2021.

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

- 1 (xi) cleaning and disinfection protocols that <sup>2,2</sup> identify who is  
2 cleaning and disinfecting if there is a presumptive or positive case  
3 of coronavirus disease 2019 <sup>2</sup>[.] <sup>2</sup> require that there will be  
4 frequent cleaning and disinfecting of all food surfaces, including <sup>2,2</sup>  
5 but not limited to, equipment, including restrooms, high touch  
6 areas, meeting rooms, host stations, railings, credit card readers,  
7 counters, and menus <sup>2</sup>[.] <sup>2</sup> and require that tables, chairs, and other  
8 shared items will be cleaned and disinfected after each use;
- 9 (xii) signage protocols to inform customers to remain at least six  
10 feet apart while in the establishment or venue, and signage at the  
11 entrance with the certification that the establishment or venue has  
12 met the requirements of this act <sup>2</sup>and<sup>2</sup> is allowed to serve patrons at  
13 <sup>1</sup>[50 percent] full<sup>1</sup> capacity; and
- 14 (xiii) communication and training protocols to ensure that all  
15 employees have access to the preparedness plan required under this  
16 paragraph and that all employees are properly trained to comply  
17 with the preparedness plan;
- 18 (d) with respect to customers who dine in the establishment or  
19 venue and not those who order takeout or delivery from the  
20 establishment or venue, the establishment or venue agrees to  
21 conduct contact tracing in the event of a presumptive positive case  
22 or a positive case <sup>2</sup>of coronavirus disease 2019<sup>2</sup> , which shall  
23 include such preemptive measures as maintaining records of the  
24 names and contact information of all persons who enter the  
25 establishment or venue; and
- 26 (e) the establishment or venue certifies that it is in compliance  
27 with all other applicable State and federal laws.
- 28 b. A food or beverage establishment, or banquet or wedding  
29 venue, may submit an application to operate at 50 percent <sup>1</sup>or full<sup>1</sup>  
30 capacity indoors at any time to the county board of health, which  
31 shall review and determine eligibility to operate at 50 percent <sup>1</sup>or  
32 full<sup>1</sup> capacity <sup>1</sup>, as is applicable based on the COVID-19 activity  
33 level in which the establishment or venue is located.<sup>1</sup> within  
34 <sup>1</sup>[seven] 14<sup>1</sup> days of receipt of the establishment or venue's  
35 application. <sup>1</sup>If the county board of health determines that the  
36 establishment or venue has submitted insufficient documentation  
37 for a determination of eligibility, then the establishment or venue  
38 shall have seven days from the date of the board's notice of  
39 insufficient information to provide the necessary documentation.<sup>1</sup>
- 40 c. If a region's activity level of coronavirus disease 2019  
41 increases above <sup>1</sup>[moderate] low but no higher than moderate<sup>1 2,2</sup>  
42 as determined in the Department of Health's " <sup>2</sup>[Covid-19]  
43 COVID-19<sup>2</sup> Activity Report," and <sup>1</sup>an establishment or venue  
44 complies with the certification and other requirements established  
45 under paragraph (2) of subsection a. of this section.<sup>1 2</sup>[the  
46 establishment]<sup>2</sup> all establishments or venues within the region shall

1 <sup>1</sup>~~【decrease】~~ maintain<sup>1</sup> their indoor operations to a maximum of  
2 <sup>1</sup>~~【25】~~ 50<sup>1</sup> percent capacity of the establishment or venue’s  
3 capacity.

4 d. Any person may report a suspected violation of this act to  
5 the appropriate county board of health. The board of health or  
6 county health department to which the violation was reported shall  
7 investigate the alleged violation. If it is determined that the  
8 establishment or venue violated the provisions of this act, the  
9 county board of health shall have the discretion to reduce the  
10 capacity of the establishment or venue <sup>1</sup>~~【to 25 percent】~~<sup>1</sup> until the  
11 violation is remediated to the satisfaction of the county board of  
12 health. <sup>1</sup>As an alternative to a reduction in capacity, a county board  
13 of health may issue a stop-work order to an establishment or venue  
14 in violation of this act. The order shall remain in effect until the  
15 county board of health issues an order releasing the stop-work order  
16 upon finding that the establishment or venue is in compliance with  
17 this act.<sup>1</sup>

18 e. The Department of Health shall routinely update and publish  
19 its “<sup>2</sup>~~【Covid-19】~~ COVID-19<sup>2</sup> Activity Level Report” and distribute  
20 the report, as updated, to all the county boards of health in a timely  
21 manner. <sup>2</sup>~~【This】~~ The<sup>2</sup> department shall post this information on its  
22 website and report its findings to each county on a monthly basis.

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

26 g. Notwithstanding the provisions of this act, if the Governor  
27 issues an executive order permitting food or beverage  
28 establishments, or banquet or wedding venues, to operate at a  
29 higher capacity <sup>1</sup>~~【than 25 percent】~~<sup>1</sup> indoors without compliance  
30 with the requirements of this act, the requirements of this act shall  
31 not prohibit such establishments or venues from operating in  
32 accordance with the Governor’s executive order.

33 h. The Commissioner of Health, in consultation with the  
34 Commissioner of Labor and Workforce Development <sup>2,2</sup> shall  
35 establish rules and regulations necessary to implement the  
36 provisions of this act. <sup>1</sup>A county board of health may request  
37 assistance from the Departments of Health and Labor and  
38 Workforce Development, or appropriate political subdivisions of  
39 the State <sup>2,2</sup> in implementing the provisions of this act.<sup>1</sup>

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

45  
46 2. This act shall take effect immediately and shall expire on the  
47 later of:

1       <sup>2</sup>[(1)] a.<sup>2</sup> the date of expiration, termination, or rescission of  
2 any and all executive or administrative orders issued by the  
3 Governor or Commissioner of Health establishing <sup>2</sup>coronavirus-  
4 related<sup>2</sup> occupancy or customer seating restrictions <sup>2</sup>related to  
5 coronavirus disease 2019 that are<sup>2</sup> applicable to food or beverage  
6 establishments or venues; or  
7       <sup>2</sup>[(2)] b.<sup>2</sup> the first day of the seventh month next following the  
8 date on which the Governor declares that the state of emergency  
9 <sup>2</sup>declared in response to the coronavirus disease 2019 pandemic<sup>2</sup>  
10 has ended.