

ASSEMBLY, No. 5135

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED DECEMBER 10, 2020

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Co-Sponsored by:

Assemblymen Chiaravalloti and Benson

SYNOPSIS

Establishes Statewide standards for the use of heaters and tents by restaurants during COVID-19 public health emergency.

CURRENT VERSION OF TEXT

As introduced.



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

1 AN ACT establishing Statewide standards for the use of heaters and
2 tents by restaurants during the COVID-19 public health
3 emergency.

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

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8 1. During the period in which the State's public health
9 emergency in response to the COVID-19 pandemic is in effect,
10 initially declared by the Governor pursuant to Executive Order No.
11 103 of 2020 and subsequently extended, the standards and
12 requirements for the use of tents and heaters by restaurants
13 established in this act shall be in effect. The standards and
14 requirements shall be applicable to the use by the owner or operator
15 of a restaurant intending to use a heat source inside an enclosed,
16 outdoor temporary dining tent. A municipality shall not establish
17 and enforce any standards or requirements that are more restrictive
18 than the standards established in this act; however, a municipality
19 may establish or enforce less-restrictive, or alternative, standards
20 than those established in this act only if those standards adequately
21 and effectively protect the health and safety of restaurant patrons,
22 restaurant employees, and the general public.

23
24 2. The owner or operator of a restaurant that intends to offer
25 service to customers under heated outdoor temporary dining tents
26 during the COVID-19 pandemic public health emergency shall file
27 an application with the fire official of the municipality in which the
28 restaurant is located. No municipality shall charge a fee to the
29 owner or operator of a restaurant related to such an application.
30 The fire official shall approve the application after a review of the
31 application and evidence from the restaurant owner or operator that
32 the equipment intended to be used, and the plan for the use of a
33 heated tent comply with the requirements of this act.

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35 3. Each outdoor temporary dining tent, and heating source
36 intended to be used inside the tent, shall meet the following
37 standards:

38 a. A tent shall be constructed of fire-retardant material, and
39 documentation attesting to this standard shall be submitted with the
40 application required in section 2 of this act;

41 b. No cooking or warming of food shall be performed under a
42 tent;

43 c. At least one fire extinguisher shall be present inside the tent
44 at all times, and shall be placed in an area that is easily accessible;

45 d. There shall be a minimum clearance of five feet between an
46 open flame and any combustible material;

47 e. All heating units shall be placed on a stable base;

1 f. If an electric heater is to be used, there shall be a minimum
2 clearance of five feet between the heater and any combustible
3 material;

4 g. If a generator is to be used as a power source for a heater,
5 the generator shall not be located within the tent or within five feet
6 of the tent, and shall not be refueled if the generator is hot; and

7 h. An enclosed tent with heating devices inside shall have
8 prominently marked entrances and exits.

9
10 4. In addition to the standards set forth in section 3 of this act,
11 the owner or operator of a restaurant shall be responsible for taking
12 the following actions to ensure the safe use of heaters inside tents
13 during the period that this act is in effect:

14 a. Ensuring the safe storage of propane or other fuels at all
15 times;

16 b. Ensuring that heaters and fuels are unplugged or turned off,
17 and safely stored overnight; and

18 c. Providing, or arranging for, training for all employees on
19 how to install fuel or fuel sources, and how to detect a fuel leak.

20
21 5. In addition to the standards set forth in section 3 of this act
22 and the safety requirements for owners and operators of restaurants
23 required in section 4 of this act, if a restaurant has located a tent
24 having a heat source on a public street or in a public parking lot and
25 there is a substantial possibility that a vehicle may impact the tent,
26 the owner or operator of a restaurant shall take reasonable
27 precautions to prevent a vehicle impact with the tent, including but
28 not limited to the installation of a vehicle impact protection system
29 around the perimeter of the tent.

30
31 6. The Division of Fire Safety in the Department of
32 Community Affairs shall, within 14 days of the effective date of
33 this act, promulgate emergency rules and regulations as necessary
34 to effectuate the provisions of this act. The Division of Fire Safety
35 in the Department of Community Affairs shall readopt or amend the
36 emergency rules and regulations pursuant to the "Administrative
37 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

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39 7. This act shall take effect immediately and shall expire on
40 January 1, 2023.

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STATEMENT

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45 This bill would establish State wide standards and rules for the
46 use of heaters and tents by restaurants during the COVID-19 public
47 health emergency.

1 The bill requires the owner or operator of a restaurant that
2 intends to offer service to customers under heated tents during the
3 COVID-19 pandemic public health emergency to file an application
4 with the fire official of the municipality in which the restaurant is
5 located. The fire official shall approve the application after a
6 review of the application and evidence from the restaurant owner or
7 operator that the equipment intended to be used, and the plan for the
8 use of a heated tent comply with the bill's requirements.

9 Each tent, and heating source intended to be used inside the tent,
10 shall meet the following standards:

11 (1) A tent is required to be constructed of fire-retardant
12 material, and documentation attesting to this standard shall be
13 submitted with the application required in section 2 of this act;

14 (2) No cooking or warming of food shall be performed under a
15 tent;

16 (3) At least one fire extinguisher shall be present inside the tent
17 at all times, and shall be placed in an area that is easily accessible;

18 (4) There shall be a minimum clearance of five feet between an
19 open flame and any combustible material;

20 (5) All heating units shall be placed on a stable base;

21 (6) If an electric heater is to be used, there shall be a minimum
22 clearance of five feet between the heater and any combustible
23 material;

24 (7) If a generator is to be used as a power source for a heater,
25 the generator shall not be located within the tent or within five feet
26 of the tent, and shall not be fueled if it is hot; and

27 (8) An enclosed tent having heating devices inside shall have
28 prominently marked entrances and exits.

29 The bill also requires that the owner or operator of a restaurant
30 shall be responsible for taking the following actions to ensure the
31 safe use of heaters inside tents during the period that this act is in
32 effect:

33 (1) Ensuring the safe storage of propane or other fuels at all
34 times;

35 (2) Ensuring that heaters and fuels are unplugged or turned off,
36 and safely stored overnight; and

37 (3) Providing, or arranging for, training for all employees on
38 how to install fuel or fuel sources and how to detect a fuel leak.

39 The bill also requires that if a restaurant has located a tent having
40 a heat source on a public street or in a public parking lot and there
41 is a substantial possibility that a vehicle may impact the tent, the
42 owner or operator of a restaurant shall take reasonable precautions
43 to prevent a vehicle impact with the tent, including but not limited
44 to the installation of a vehicle impact protection system around the
45 perimeter of the tent.

46 The bill requires the Division of Fire Safety in the Department
47 of Community Affairs to promulgate emergency rules and

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1 regulations as necessary to effectuate the provisions of the bill, and
2 allows the division to readopt or amend those emergency rules.

3 It is anticipated that these requirements and standards will allow
4 restaurants to continue to serve patrons through the cold fall,
5 winter, and early spring months.