

# SENATE, No. 3093

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED NOVEMBER 5, 2020

**Sponsored by:**

**Senator VIN GOPAL**

**District 11 (Monmouth)**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

**Co-Sponsored by:**

**Senators Singleton, Oroho, Singer, A.M.Bucco, O'Scanlon and Pou**

**SYNOPSIS**

Establishes county-based mitigation plan to allow businesses to operate during pandemic.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/21/2021)**

1 AN ACT concerning public health emergencies and supplementing  
2 P.L.2005, c.222.

3

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

6

7 1. As used in this act:

8 “Pandemic” means the spread of an infectious disease across  
9 countries or continents as declared by the World Health Organization  
10 to be a pandemic.

11 “Business” means any establishment offering a good or service to  
12 the public.

13

14 2. The Legislature finds and declares that:

15 a. Since the first reported case in March of 2020, this State has  
16 been confronting the coronavirus disease 2019 (COVID-19)  
17 pandemic, which has necessitated certain public health measures to  
18 curtail its spread.

19 b. The measures used to curtail the spread of COVID-19 include  
20 the closure and limitation of certain businesses, and implementation  
21 of social distancing guidelines, which are being implemented  
22 uniformly across the State.

23 c. The continued use of uniform measures in the State ignores  
24 the geographic variations in positive cases, hospitalizations, and  
25 transmission rates.

26 d. Ignoring the geographic variations of COVID-19’s spread  
27 negatively affects businesses that can safely operate in areas of low  
28 risk in the State.

29 e. A geographic approach using appropriate established metrics  
30 to analyze the spread of a disease can allow businesses to operate and  
31 re-open safely in low-risk areas while slowing the spread of disease.

32 f. Having transparent metrics with established thresholds at  
33 which restrictions will be imposed or lifted helps business owners  
34 and residents plan for the future and understand the need for  
35 complying with public health measures in their local area.

36 g. Globalization and the increasing convenience of travel allow  
37 infectious diseases to spread rapidly, creating the possibility that  
38 pandemics may become more frequent in the future.

39 h. Establishing a permanent framework to allow businesses to  
40 operate during a pandemic, while mitigating its spread, can help  
41 businesses to survive and continue operations while protecting the  
42 health and safety of citizens of this State.

43

44 3. a. Notwithstanding any law, rule, or regulation to the  
45 contrary, the Governor, in consultation with the Commissioner of  
46 Health, shall develop and implement a mitigation plan to allow  
47 businesses to operate during a pandemic that is affecting the State.

48 This plan shall:

1 (1) use empirical data, over a seven-day rolling average, to  
2 determine the spread of the disease within the State's 21 counties and  
3 to develop categories of risk pursuant to paragraph (2) of subsection  
4 a. of this section. The data used shall include, but not be limited to:  
5 (a) the number of new cases per 100,000 persons per day in each  
6 county;  
7 (b) hospital capacity in each county;  
8 (c) positivity rates among those tested for the disease;  
9 (d) the number of those hospitalized with either a confirmed or  
10 suspected case of the disease; and  
11 (e) the effective reproduction number for the disease;  
12 (2) categorize the risk of the disease spreading within the State  
13 by color and establish appropriate thresholds for reaching each  
14 category. The following colors shall be used as a category of risk:  
15 (a) red, which shall indicate that there is an active outbreak and  
16 is the highest level of risk;  
17 (b) yellow, which shall indicate that the risk of an outbreak is  
18 moderate; and  
19 (c) green, which shall indicate that the risk of an outbreak is low;  
20 (3) assign one of the categories of risk in paragraph (2) of  
21 subsection a. of this section to each of the State's 21 counties and 565  
22 municipalities, with additional consideration given to a county  
23 containing a jail, university, or other large congregate facility;  
24 (4) establish guidelines detailing the restrictions to be imposed on  
25 businesses under each risk category; and  
26 (5) restrict business activity within a county based on the risk  
27 category assigned to the area. For an affected county with a  
28 population density greater than 1,500 persons per square mile, the  
29 Governor may restrict business activity countywide or by  
30 municipality. If an affected county has a population density beneath  
31 1,500 persons per square mile, the Governor shall restrict business  
32 activity by each municipality within that county. Notwithstanding  
33 the Governor's restrictions, a municipality within an affected county  
34 may further restrict business activity within its boundaries if the  
35 municipality has reason to believe, based on empirical data in  
36 paragraph (1) of subsection a. of this section, that it should be subject  
37 to restrictions beyond those established under this section.  
38 b. The Governor shall have the authority to summarily suspend  
39 the gaming operations of casino licensees within the State pursuant  
40 to P.L.2005, c.222 (C.26:13-1 et seq.) and P.L.1942, c.251  
41 (C.App.A:9-33 et seq.) as part of the restrictions that the Governor  
42 may implement under this section. A holder of a liquor license,  
43 pursuant to P.L.1953, c.32 (C.33:1-1 et seq.), with retail consumption  
44 privileges and operating a restaurant, cafeteria, bar, or other food or  
45 beverage establishment, with an outdoor area, is exempt from fines  
46 imposed pursuant to P.L.1955, c.80 (C.33:1-31) for violating outdoor  
47 customer seating restrictions established by an executive or  
48 administrative order issued by the Governor or commissioner.

1 c. Restrictions pertaining to each category of risk and the data  
2 trends of each county shall be published on the Department of Health  
3 website to provide transparency for affected business owners and the  
4 public. A county assigned to a category higher than green shall not  
5 be reassigned to a lesser category without a three-week evaluation of  
6 the area's empirical data to determine its progress.

7  
8 4. This act shall take effect immediately.

9  
10  
11 STATEMENT

12  
13 This bill directs the Governor to develop and implement a county-  
14 based mitigation plan to allow businesses to operate during a  
15 pandemic.

16 Under this bill, the Governor, in consultation with the  
17 Commissioner of the Department of Health, is directed to develop  
18 and implement a mitigation plan to allow business to operate during  
19 a pandemic. This plan will be developed by using empirical data,  
20 over a seven day rolling average, to establish three categories of risk  
21 that will be organized by the following colors:

22 (1) Red, which shall indicate that there is an active outbreak and  
23 is the highest level of risk;

24 (2) Yellow, which shall indicate that the risk of an outbreak is  
25 moderate; and

26 (3) Green, which shall indicate that the risk of an outbreak is low.

27 Once these categories, and the thresholds for reaching them, are  
28 established, the Governor will assign one of the categories to each of  
29 the State's 21 counties and 565 municipalities, with additional  
30 consideration given to a county containing a jail, university, or other  
31 large congregate facility. The Governor will then restrict business  
32 activity within a county based on the category that the county was  
33 assigned to. For an affected county with a population density greater  
34 than 1,500 persons per square mile, the Governor may restrict  
35 business activity countywide or by municipality. If an affected  
36 county has a population density beneath 1,500 persons per square  
37 mile, the Governor will restrict business activity by municipality.  
38 Municipalities within an affected county may further restrict business  
39 activity if the municipality has reason to believe that, based on  
40 empirical data, they should be subject to restrictions beyond those  
41 mandated upon them.

42 A county assigned to a category higher than green will not be  
43 reassigned to a lesser category without a three-week evaluation of the  
44 area's empirical data to determine its progress. Restrictions  
45 pertaining to each category of risk and the data trends of each county  
46 will be published on the Department of Health website to provide  
47 transparency for affected business owners and the public.