

SENATE, No. 3374

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 21, 2021

Sponsored by:

Senator NILSA I. CRUZ-PEREZ

District 5 (Camden and Gloucester)

Senator ANTHONY M. BUCCO

District 25 (Morris and Somerset)

Co-Sponsored by:

Senators Holzapfel and Gopal

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: 3/4/2021)

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 (29 U.S.C. s.2601 et
8 seq.), P.L.2018, c.10 (C.34:11D-1 et seq.), P.L.1948, c.110
9 (C.43:21-25 et seq.), to the extent those laws are applicable, and
10 any other applicable State or federal laws regarding leave;
- 11 (iv) a policy to ensure adequate social distancing by maintaining
12 a distance of at least six feet between individuals, or groups of
13 individuals, in the establishment, whether the individuals are
14 patrons or employees, to the extent possible;
- 15 (v) where it is not possible to maintain a distance of six feet
16 between individuals, a policy to erect barriers between individuals,
17 which shall include the type of barrier utilized,
- 18 (vi) limit to the number of patrons that may be seated together at
19 the same time;
- 20 (vii) requiring each employee to wash hands immediately after
21 entering the building and frequently throughout the employee's
22 shift;
- 23 (viii) the installation of hand-sanitizer dispensers or stations at
24 the entrance of the establishment and in areas throughout the
25 establishment for employees and patrons to be used for hand
26 hygiene in addition to soap and water in restrooms;
- 27 (ix) requiring masks for all employees who are in direct contact
28 with patrons, making masks available to all employees at no cost to
29 the employees, and requiring masks be worn by all patrons until
30 drinks or meals arrive at the table;
- 31 (x) ventilation protocols that include the maintenance of all
32 building systems and an ongoing assessment of the amount of fresh
33 air and air recirculation in the establishment, and ensuring that
34 ventilation systems are being properly used;
- 35 (xi) cleaning and disinfection protocols that identify who is
36 cleaning and disinfecting if there is a presumptive or positive case
37 of coronavirus disease 2019, require that there will be frequent
38 cleaning and disinfecting of all food surfaces, including but not
39 limited to, equipment, including restrooms, high touch areas,
40 meeting rooms, host stations, railings, credit card readers, counters,
41 and menus, and require that tables, chairs, and other shared items
42 will be cleaned and disinfected after each use;
- 43 (xii) signage protocols to inform customers to remain at least six
44 feet apart while in the establishment, and signage at the entrance
45 with the certification that the establishment has met the
46 requirements of this act is allowed to serve patrons at 50 percent
47 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 (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.