

[First Reprint]

SENATE, No. 3093

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED NOVEMBER 5, 2020

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SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on January 21, 2021, with amendments.

(Sponsorship Updated As Of: 5/20/2021)

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
10 Organization to be a pandemic.

11 “Business” means any establishment offering a good or service
12 to 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
20 include the closure and limitation of certain businesses, and
21 implementation of social distancing guidelines, which are being
22 implemented 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
31 and re-open safely in low-risk areas while slowing the spread of
32 disease.

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

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

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

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:

¹Senate SCM committee amendments adopted January 21, 2021.

- 1 3. a. Notwithstanding any law, rule, or regulation to the
2 contrary, the Governor, in consultation with the Commissioner of
3 Health, shall develop and implement a mitigation plan to allow
4 businesses to operate during a pandemic that is affecting the State.
5 This plan shall:
- 6 (1) use empirical data, over a seven-day rolling average, to
7 determine the spread of the disease within the State's 21 counties
8 and to develop categories of risk pursuant to paragraph (2) of
9 subsection a. of this section. The data used shall include, but not be
10 limited to:
- 11 (a) the number of new cases per 100,000 persons per day in
12 each county;
- 13 (b) hospital capacity in each county;
- 14 (c) positivity rates among those tested for the disease;
- 15 (d) the number of those hospitalized with either a confirmed or
16 suspected case of the disease; and
- 17 (e) the effective reproduction number for the disease;
- 18 (2) categorize the risk of the disease spreading within the State
19 by color and establish appropriate thresholds for reaching each
20 category. The following colors shall be used as a category of risk:
- 21 (a) red, which shall indicate that there is an active outbreak and
22 is the highest level of risk;
- 23 (b) yellow, which shall indicate that the risk of an outbreak is
24 moderate; and
- 25 (c) green, which shall indicate that the risk of an outbreak is
26 low;
- 27 (3) assign one of the categories of risk in paragraph (2) of
28 subsection a. of this section to each of the State's 21 counties and
29 565 municipalities, with additional consideration given to a county
30 containing a jail, university, or other large congregate facility;
- 31 (4) establish guidelines detailing the restrictions to be imposed
32 on businesses under each risk category; and
- 33 (5) restrict business activity within a county based on the risk
34 category assigned to the area. For an affected county with a
35 population density greater than 1,500 persons per square mile, the
36 Governor may restrict business activity countywide or by
37 municipality. If an affected county has a population density
38 beneath 1,500 persons per square mile, the Governor shall restrict
39 business activity by each municipality within that county.
40 Notwithstanding the Governor's restrictions, a municipality within
41 an affected county may further restrict business activity within its
42 boundaries if the municipality has reason to believe, based on
43 empirical data in paragraph (1) of subsection a. of this section, that
44 it should be subject to restrictions beyond those established under
45 this section.
- 46 b. The Governor shall have the authority to summarily suspend
47 the gaming operations of casino licensees within the State pursuant

1 to P.L.2005, c.222 (C.26:13-1 et seq.) and P.L.1942, c.251
2 (C.App.A:9-33 et seq.) as part of the restrictions that the Governor
3 may implement under this section. ¹【A holder of a liquor license,
4 pursuant to P.L.1953, c.32 (C.33:1-1 et seq.), with retail
5 consumption privileges and operating a restaurant, cafeteria, bar, or
6 other food or beverage establishment, with an outdoor area, is
7 exempt from fines imposed pursuant to P.L.1955, c.80 (C.33:1-31)
8 for violating outdoor customer seating restrictions established by an
9 executive or administrative order issued by the Governor or
10 commissioner.】¹

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

17

18 4. This act shall take effect immediately.