

A4866 (2R)

INTRODUCED BILL: (Includes sponsor(s) statement)	Yes	
REPRINT(S):	Yes	AOF 10/17/24 1R AAP 10/24/24 2R
TECHNICAL REVIEW:	No	
COMMITTEE STATEMENT:	ASSEMBLY:	Yes Oversight & Reform Appropriations
	SENATE:	No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No	
LEGISLATIVE FISCAL ESTIMATE:	Yes	10/23/2024 10/31/2024

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	No

CL/MM

Title 40.
Chapter 55D.
Article 18. (new)
Premises
Expansion
Permits for
Outdoor Sales.
§§1-7,10
C.40:55D-164
to 40:55D-171
§11
Note

P.L. 2024, CHAPTER 95, *approved November 25, 2024*
Senate, No. 3608 (*Second Reprint*)

1 AN ACT concerning outdoor sale of food and alcoholic beverages
2 and supplementing Title 40 of the Revised Statutes.

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 “Alcoholic beverage manufacturer license” or “license” means a
9 plenary winery license, farm winery license, ²**[out-of-State winery**
10 **license,]**² limited brewery license, restricted brewery license, cidery
11 and meadery license, and craft distillery license issued pursuant to
12 R.S.33:1-10.

13 “Alcoholic beverage retail consumption license” or “license”
14 means a plenary retail consumption license, plenary retail consumption
15 license used in connection with a hotel or motel, seasonal retail
16 consumption license, or club license issued pursuant to R.S.33:1-12, or
17 a concessionaire permit issued pursuant to Title 33 of the Revised
18 Statutes that authorizes the sale of all alcoholic beverages for
19 consumption on the licensed premises.

20 “Food” means food that is cooked, prepared, sold, served, and
21 consumed on the business premises.

22 “Outdoor space” means a patio or deck, whether covered or
23 uncovered, a yard, a walkway, or a parking lot, or a portion of any
24 such space, that is located on ¹**[or adjacent to]**¹ the business premises,
25 ¹contiguous to the business premises, or in a non-contiguous location
26 in accordance with paragraph (2) of subsection a. of section 2 of
27 P.L. , c. (C.) (pending before the Legislature as this bill)¹ which
28 space is owned, leased, or otherwise in the lawful control of the owner
29 or operator of the business premises.

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 SBA committee amendments adopted October 7, 2024.

²Assembly floor amendments adopted October 28, 2024.

1 “Premises expansion permit” means a permit issued to a
2 manufacturer ¹ ~~license~~ license holder¹ or retail consumption
3 ¹ ~~license~~ license holder¹ that entitles the license holder to use
4 outdoor spaces ¹ as an extension of their business premises¹ that they
5 own or lease and that are located either on ¹ ~~], or adjacent to,]~~¹ their
6 business premises, ¹ ~~as an extension of their business premises]~~
7 contiguous to the business premises, or in a non-contiguous location in
8 accordance with paragraph (2) of subsection a. of section 2 of P.L. ,
9 c. (C.) (pending before the Legislature as this bill)¹ for the purpose
10 of conducting sales of food and beverages ² as allowed by law².

11 “Public sidewalk” means a sidewalk on the locally or county
12 owned public right-of-way which is adjacent to the business premises,
13 or a portion thereof.
14

15 2. a. ¹ ~~(1)~~ ² ~~The~~ Following the issuance of a special ruling or
16 adoption of regulations pursuant to subsection f. of this section, the²
17 Director of the Division of Alcoholic Beverage Control shall issue to
18 the holder of an alcoholic beverage manufacturer license or retail
19 consumption license a premises expansion permit upon application by
20 the license holder. ² Application for the permit shall be made on an
21 annual basis and the administrative fee for the permit shall be fixed by
22 the director.² The permit shall entitle the license holder to sell
23 alcoholic beverages in outdoor spaces ¹ as an extension of their
24 business premises¹ that they own or lease and that are located either on
25 ¹ ~~], or adjacent to,]~~¹ their business premises, ¹ ~~as an extension of their~~
26 ~~business premises]~~ contiguous to the business premises, or in a non-
27 contiguous location in accordance with paragraph (2) of this
28 subsection¹. ² The director may impose any conditions upon the
29 issuance or renewal of this permit deemed necessary and proper to
30 achieve the objectives of this section.²

31 ¹ ~~(2)~~ The permit shall entitle the license holder to expand the
32 licensed premises to non-contiguous property, provided the property is
33 in reasonable proximity to the licensed premises and the license holder
34 has established safeguards to ensure that alcoholic beverages will be
35 sold and served in accordance with Title 33 of the Revised Statutes. A
36 license holder who obtains a premises expansion permit for a
37 contiguous and non-contiguous property shall demonstrate that the
38 license holder has a possessory interest and control over the property
39 and shall be entitled to exercise the same privileges afforded on the
40 existing licensed premises.¹

41 b. An applicant for a premises expansion permit shall file an
42 application with the director with the following information:

- 43 (1) the name, address, and license number of the applicant;
44 (2) a description of the property that is the subject of the
45 application as well as a sketch or photographs of the property;

1 (3) written approval or documentation from the property owner
2 authorizing the temporary use of the expanded property by a licensee
3 if the licensed property is not owned by the license holder; and

4 (4) proposed security plan for sale and service of alcoholic
5 beverages on the expanded premises including prevention of pass-offs,
6 underage drinking, and over-consumption ¹[:].¹

7 c. The director shall ²[transfer] transmit² the application for a
8 premises expansion permit to the municipal clerk and police chief of
9 the municipal governing body in which the manufacturer license or
10 retail consumption license ¹is¹ situated. For licensed premises located
11 on property owned by or under the control of any political subdivision
12 of this State, the application shall be reviewed and approved by a
13 designated administrative official and the chief law enforcement
14 officer responsible for the licensed property.

15 The director shall not approve or deny an application until it
16 receives an endorsement or approval by the appropriate governing
17 body officials.

18 d. ²[A] Following the initial issuance, the renewal date of a²
19 premises expansion permit issued pursuant to this section ²[renews
20 on] shall be² the same ²as the renewal² date ²[that] of² the retail
21 consumption license or manufacturer license ²[is renewed by the
22 license holder]².

23 e. ²(1)² A license holder who held a temporary expansion permit
24 issued pursuant to the director's special ruling prior to the effective
25 date of this act shall be entitled ², upon notice to the director and
26 payment of a fee as shall be fixed by the director,² to convert the
27 permit to a premises expansion permit established pursuant to this
28 section. A license holder who held the temporary expansion permit
29 prior ¹to¹ the effective date of this act and converts the permit pursuant
30 to this subsection shall not be required to submit to the director or
31 municipal governing authority an additional application pursuant to
32 P.L. , c. (C.) (pending before the Legislature as this bill).

33 ²(2) A temporary expansion permit issued pursuant to the
34 director's special ruling prior to the effective date of this act shall
35 remain in effect pending the director's issuance of a special ruling or
36 adoption of regulations pursuant to subsection f. of this section until
37 either November 30, 2025 or until the license holder is issued a
38 premises expansion permit pursuant to this section.

39 f. No later than May 30, 2025, the director shall issue a special
40 ruling or adopt regulations necessary to effectuate the purposes of this
41 section. Regulations shall be effective immediately upon filing with
42 the Office of Administrative Law for a period not to exceed 18
43 months, and may, thereafter, be amended, adopted or readopted in
44 accordance with the provisions of the "Administrative Procedure Act,"
45 P.L.1968, c.410 (C.52:14B-1 et seq.).²

1 3. a. Notwithstanding the provisions of any law to the contrary,
2 the owner or operator of a restaurant that does not sell alcoholic
3 beverages and the holder of an alcoholic beverage manufacturer
4 license or retail consumption license may use ², for purposes other
5 than selling alcoholic beverages in such spaces as authorized pursuant
6 to section 2 of P.L. , c. (C.)(pending before the Legislature as
7 this bill),² outdoor spaces ¹as an extension of their business premises¹
8 that they own or lease and that are located either on ¹[], or adjacent
9 to,]¹ their business premises ¹[], as an extension of their business
10 premises] contiguous to the business premises, or in a non-contiguous
11 location¹.

12 b. The owner or operator of a restaurant that does not sell
13 alcoholic beverages and the holder of an alcoholic beverage
14 manufacturer license or retail consumption license seeking to utilize ²,
15 for purposes other than selling alcoholic beverages in such spaces as
16 authorized pursuant to section 2 of P.L. , c. (C.)(pending before
17 the Legislature as this bill),² outdoor spaces as an extension of their
18 businesses shall file an application with the municipal zoning officer.
19 The application to the municipal zoning officer shall include:

20 (1) a plan, sketch, picture, or drawing that depicts the design,
21 dimensional boundaries, and placement of tents, canopies, umbrellas,
22 tables, chairs, and other fixtures of the outdoor spaces; and

23 (2) a plan for the control of litter, the removal and storage of
24 garbage, and the cleaning of fixtures and grounds. If a business
25 premises' parking lot is used for the service and sale of either food or
26 beverages, or both, the owner or operator of a restaurant that does not
27 sell alcoholic beverages and the holder of an alcoholic beverage
28 manufacturer license or retail consumption license shall not encumber
29 more than 75 percent of the lot's total parking spaces for service and
30 sale, unless the parking lot contains less than eight parking spaces, and
31 shall maintain at least one handicapped parking space in the parking
32 lot.

33 c. A municipality may require that an applicant provide one or
34 more of the following:

35 (1) written consent of the owner of the premises, if other than the
36 applicant;

37 (2) an insurance certificate naming the municipality as an
38 additional insured, with general liability on an occurrence with a limit
39 of liability of at least \$1,000,000, with respect to losses arising solely
40 from the operation of the outdoor dining facility; or

41 (3) an indemnification agreement with the municipality with
42 respect to losses arising solely from the operation of the outdoor
43 dining facility.

44 d. (1) The zoning officer shall issue an approval to the applicant
45 within 15 business days of the application being submitted and deemed
46 complete provided that the applicant meets and abides by all
47 qualifications and requirements of P.L. , c. (C.) (pending

1 before the Legislature as this bill), with the exception that the zoning
2 officer may deny an application based on current violations of any
3 other health, safety, fire, permitted use, or zoning regulation, or upon
4 any applicable law permitting the denial of a zoning permit. An
5 application under this section shall not be considered a variance under
6 the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.).

7 (2) A municipality may deny, revoke, or temporarily suspend the
8 permit of any applicant or permittee that violates, or is not in
9 compliance with, any provision of P.L. , c. (C.) (pending
10 before the Legislature as this bill) or any provision of a law, ordinance,
11 or regulation related to health, safety, fire, permitted use, zoning, or
12 the consumption or control of alcoholic beverages not otherwise under
13 the jurisdiction of the Division of Alcoholic Beverage Control, and
14 may also deny, revoke, or temporarily suspend the permit of any
15 applicant or permittee based on any action taken against the applicant
16 or permittee by the Division of Alcoholic Beverage Control related to
17 the division’s enforcement of any law or regulation related to the
18 consumption or control of alcoholic beverages under its jurisdiction.

19 (3) An appeal to any approval, denial, revocation, or suspension
20 may be filed through the municipal clerk with the governing body of
21 the municipality. The governing body, or its designee, shall conduct a
22 hearing and render a decision within 30 days of the filing of the
23 appeal. The governing body may designate a municipal official or an
24 attorney licensed in the State of New Jersey to serve as a hearing
25 officer in place of the governing body for the purpose of conducting
26 said hearing and rendering said decision. Nothing in P.L. , c.
27 (C.) (pending before the Legislature as this bill) shall be
28 construed to restrict the right of any party to obtain a review by any
29 court of competent jurisdiction, according to law.

30 e. A permit issued pursuant to this section to a restaurant without
31 an alcoholic beverage retail license shall ²**[renew annually]** be subject
32 to annual renewal².

33 f. A municipality that approves an application for the holder of an
34 alcoholic beverage manufacturer license or retail consumption license
35 shall submit its endorsement to the Director of the Division of
36 Alcoholic Beverage Control pursuant to section 2 of P.L. , c.
37 (C.) (pending before the Legislature as this bill).

38 g. The owner or operator of a restaurant that does not sell
39 alcoholic beverages and the holder of an alcoholic beverage
40 manufacturer license or retail consumption license who held a
41 temporary permit issued by the municipality prior to the effective date
42 of this act shall be entitled to convert the permit to a premises
43 expansion permit established pursuant to this section ²to be used for
44 purposes other than selling alcoholic beverages in such spaces as
45 authorized pursuant to section 2 of P.L. , c. (C.) (pending
46 before the Legislature as this bill)². An owner or operator of a
47 restaurant that does not sell alcoholic beverages and the holder of an
48 alcoholic beverage manufacturer license or retail consumption license

1 who held a temporary permit issued by the municipality prior ¹**[prior]**
2 to¹ the effective date of this act and converts the permit pursuant to
3 this subsection shall not be required to submit to the² municipal
4 governing authority an additional application pursuant to P.L. , c.
5 (C.) (pending before the Legislature as this bill).

6
7 4. The installation and continuous use of tents, canopies,
8 umbrellas, tables, chairs, and other fixtures on private property or
9 public property or right of way designated by a municipality
10 pursuant to P.L. , c. (C.) (pending before the Legislature as
11 this bill) shall be a permitted use provided that the tent, canopy,
12 umbrella, table, chairs, or other fixture conforms to all applicable
13 provisions of the State Uniform Construction Code and Uniform
14 Fire Code, which have been adopted by the Commissioner of
15 Community Affairs pursuant to P.L.1975, c.217 (C.52:27D-119, et
16 seq.) and P.L.1983, c.383 (C.52:27D-192 et seq.), respectively.

17
18 5. a. Notwithstanding any provision of P.L. , c. (C.)
19 (pending before the Legislature as this bill) to the contrary, all other
20 municipal ordinances pertaining to sanitation, property
21 maintenance, noise, business days and hours of operation, and days
22 and hours of service of alcoholic beverages shall apply, unless
23 specifically suspended or modified by the municipality or
24 specifically prohibited by the provisions of this section.

25 b. With respect to a restaurant that does not sell alcoholic
26 beverages and the holder of premises expansion permit issued
27 pursuant section 2 of P.L. , c. (C.) (pending before the
28 Legislature as this bill) operating in outdoor spaces pursuant to
29 section 2 of P.L. , c. (C.) (pending before the Legislature
30 as this bill), a municipality shall not prohibit or limit the days and
31 hours of the outdoor service of food and beverages, including
32 alcoholic beverages, except that municipalities may prohibit or limit
33 operations for the hours after 10:00 p.m. and between 12:00 a.m.
34 and 11:00 a.m. on Sundays through Wednesdays, and between
35 12:00 a.m. and 11:00 a.m. on Thursdays through Saturdays, with
36 the exception that a municipal ordinance prohibiting or limiting the
37 days and hours of indoor service of food and beverages, including
38 alcoholic beverages, may be applied to the outdoor service of food
39 and beverages, including alcoholic beverages, as a condition of the
40 zoning approval pursuant to section 3 of P.L. , c. (C.)
41 (pending before the Legislature as this bill). This provision shall
42 not be construed as overruling or prohibiting the authority of a city
43 of the first class to impose more restrictive time restrictions or
44 prohibit or limit the days and hours of the outdoor service of food
45 and beverages.

46 c. A municipality may either prohibit or limit the days and
47 hours of any live performances, including musical performances,
48 and the playing or projection of any content from a recording,

1 streaming service or television, cable, or Internet broadcasting
2 service in outdoor spaces or on public sidewalks as a condition of
3 the zoning approval pursuant to sections 3 and 4 of P.L. , c. (C.)
4 (pending before the Legislature as this bill).

5
6 6. A public sidewalk or an outdoor space ¹, including
7 pedestrian walkways and pedestrian malls, ¹ ²which is subject to a
8 premises expansion permit issued pursuant to section 2 or section 3
9 of P.L. , c. (C.)(pending before the Legislature as this bill)²
10 shall be considered a portion of the premises that is open to the
11 public for the purposes of section 5 of P.L.1999, c.90 (C.2C:33-27).

12
13 7. Nothing in P.L. , c. (C.) (pending before the
14 Legislature as this bill) shall be interpreted or construed as permitting
15 or mandating the opening, expansion, or resumption of unlimited
16 operations of a restaurant that does not sell alcoholic beverages and the
17 holder of a ²COVID-19 Expansion Permit issued by the Director of the
18 Division of Alcoholic Beverage Control pursuant to the provisions of
19 Special Ruling No. 2020-10 or a ² ²premises expansion permit issued
20 pursuant ²to ²section 2 of P.L. , c. (C.) (pending before the
21 Legislature as this bill) that is closed, whether permanently or
22 temporarily, or operating subject to limitations on its operations,
23 service, or hours, as a result of disciplinary or legal sanctions imposed
24 by, or entering into a settlement agreement with, a court of the State of
25 New Jersey, a municipal court, the New Jersey Department of Law
26 and Public Safety, the New Jersey Division of Alcoholic Beverage
27 Control, or a municipal governing body acting as a local alcoholic
28 beverage control board, as applicable.

29
30 ²8. Section 4 of P.L.2021, c.15 is amended to read as follows:

31 4. a. Notwithstanding the provisions of any other law to the
32 contrary, the expiration date of any COVID-19 Expansion Permit
33 issued by the Director of the Division of Alcoholic Beverage Control
34 pursuant to the provisions of Special Ruling No. 2020-10 shall be
35 November 30, **[2024]** 2025, except that any such permit shall expire
36 prior to that date upon the conversion of the permit to, or issuance to
37 the permit holder of, a premises expansion permit pursuant to section 2
38 of P.L. , c. (C.)(pending before the Legislature as this bill).

39 b. The governing body of a municipality may file with the
40 Division of Alcoholic Beverage Control an objection to the continued
41 operation under subsection a. of this section by any licensee or
42 permittee the governing body finds to have:

43 (1) failed to follow, maintain, and enforce protocols promulgated
44 by the Commissioner of Health or by Executive Order of the Governor
45 in response to the COVID-19 public health emergency concerning
46 social distancing and the use of personal protective equipment; or

1 (2) violated any other health, safety, fire, permitted use, or zoning
2 regulations or ordinances not otherwise directly superseded by this
3 section or Special Ruling No. 2020-10.

4 Any decision rendered, or action taken, by the Director of the
5 Division of Alcoholic Beverage Control as a result of an objection
6 filed by the governing body of the municipality pursuant to this
7 subsection shall be a final agency action subject to judicial review in
8 the Appellate Division of the Superior Court of New Jersey in
9 accordance with the Rules of Court.

10 c. Nothing in this act shall preclude or limit the authority
11 provided to the Director of the Division of Alcoholic Beverage Control
12 pursuant to the provisions of Title 33 of the Revised Statutes or the
13 exercise of such authority thereby.²
14 (cf: P.L.2022, c.85, s.2)

15
16 ²9. Section 10 of P.L.2021, c.15 is amended to read as follows:

17 10. This act shall take effect on the 30th day following enactment
18 and sections 1 through 8 shall expire at 11:59 p.m. on November 30,
19 **[2024]** 2025.²
20 (cf: P.L.2022, c.85, s.3)

21
22 ²**[8.]** 10.² Nothing in P.L. , c. (C.) (pending before the
23 Legislature as this bill) permits the use of State-owned rights-of-
24 way for the purposes of outdoor dining. A permit for the use of the
25 State rights-of-way shall be issued upon application and approval of
26 the New Jersey Department of Transportation. For the purposes of
27 locally-owned roads that intersect the State highway system,
28 setbacks from the State right-of-way line will be 50 feet from April
29 1 to October 31, and 100 feet from November 1 to March 31.

30
31 ²**[9.]** 11.² This act shall take effect immediately ², except that
32 subsections a. through e. of section 2 shall remain inoperative until
33 May 30, 2025 but the director may take such anticipatory action as
34 may be necessary to effectuate those provisions of this act².

35
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37
38
39 Permits restaurants and certain alcoholic beverage retailers and
40 manufacturers to conduct business within designated outdoor space
41 or on public sidewalk.

CHAPTER 95

AN ACT concerning outdoor sale of food and alcoholic beverages and supplementing Title 40 of the Revised Statutes.

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

C.40:55D-164 Definitions.

1. As used in this act:

“Alcoholic beverage manufacturer license” or “license” means a plenary winery license, farm winery license, limited brewery license, restricted brewery license, cidery and meadery license, and craft distillery license issued pursuant to R.S.33:1-10.

“Alcoholic beverage retail consumption license” or “license” means a plenary retail consumption license, plenary retail consumption license used in connection with a hotel or motel, seasonal retail consumption license, or club license issued pursuant to R.S.33:1-12, or a concessionaire permit issued pursuant to Title 33 of the Revised Statutes that authorizes the sale of all alcoholic beverages for consumption on the licensed premises.

“Food” means food that is cooked, prepared, sold, served, and consumed on the business premises.

“Outdoor space” means a patio or deck, whether covered or uncovered, a yard, a walkway, or a parking lot, or a portion of any such space, that is located on the business premises, contiguous to the business premises, or in a non-contiguous location in accordance with paragraph (2) of subsection a. of section 2 of P.L.2024, c.95 (C.40:55D-165) which space is owned, leased, or otherwise in the lawful control of the owner or operator of the business premises.

“Premises expansion permit” means a permit issued to a manufacturer license holder or retail consumption license holder that entitles the license holder to use outdoor spaces as an extension of their business premises that they own or lease and that are located either on their business premises, contiguous to the business premises, or in a non-contiguous location in accordance with paragraph (2) of subsection a. of section 2 of P.L.2024, c.95 (C.40:55D-165) for the purpose of conducting sales of food and beverages as allowed by law.

“Public sidewalk” means a sidewalk on the locally or county owned public right-of-way which is adjacent to the business premises or a portion thereof.

C.40:55D-165 Premises expansion permit, alcoholic beverage manufacturer license, retail consumption license holder.

2. a. (1) Following the issuance of a special ruling or adoption of regulations pursuant to subsection f. of this section, the Director of the Division of Alcoholic Beverage Control shall issue to the holder of an alcoholic beverage manufacturer license or retail consumption license a premises expansion permit upon application by the license holder. Application for the permit shall be made on an annual basis and the administrative fee for the permit shall be fixed by the director. The permit shall entitle the license holder to sell alcoholic beverages in outdoor spaces as an extension of their business premises that they own or lease and that are located either on their business premises, contiguous to the business premises, or in a non-contiguous location in accordance with paragraph (2) of this subsection. The director may impose any conditions upon the issuance or renewal of this permit deemed necessary and proper to achieve the objectives of this section.

(2) The permit shall entitle the license holder to expand the licensed premises to non-contiguous property, provided the property is in reasonable proximity to the licensed premises and the license holder has established safeguards to ensure that alcoholic beverages will be sold and served in accordance with Title 33 of the Revised Statutes. A license holder who obtains a premises expansion permit for a contiguous and non-contiguous property shall

demonstrate that the license holder has a possessory interest and control over the property and shall be entitled to exercise the same privileges afforded on the existing licensed premises.

b. An applicant for a premises expansion permit shall file an application with the director with the following information:

(1) the name, address, and license number of the applicant;

(2) a description of the property that is the subject of the application as well as a sketch or photographs of the property;

(3) written approval or documentation from the property owner authorizing the temporary use of the expanded property by a licensee if the licensed property is not owned by the license holder; and

(4) proposed security plan for sale and service of alcoholic beverages on the expanded premises including prevention of pass-offs, underage drinking, and over-consumption.

c. The director shall transmit the application for a premises expansion permit to the municipal clerk and police chief of the municipal governing body in which the manufacturer license or retail consumption license is situated. For licensed premises located on property owned by or under the control of any political subdivision of this State, the application shall be reviewed and approved by a designated administrative official and the chief law enforcement officer responsible for the licensed property.

The director shall not approve or deny an application until it receives an endorsement or approval by the appropriate governing body officials.

d. Following the initial issuance, the renewal date of a premises expansion permit issued pursuant to this section shall be the same as the renewal date of the retail consumption license or manufacturer license.

e. (1) A license holder who held a temporary expansion permit issued pursuant to the director's special ruling prior to the effective date of this act shall be entitled, upon notice to the director and payment of a fee as shall be fixed by the director, to convert the permit to a premises expansion permit established pursuant to this section. A license holder who held the temporary expansion permit prior to the effective date of this act and converts the permit pursuant to this subsection shall not be required to submit to the director or municipal governing authority an additional application pursuant to P.L.2024, c.95 (C.40:55D-164 et al.).

(2) A temporary expansion permit issued pursuant to the director's special ruling prior to the effective date of this act shall remain in effect pending the director's issuance of a special ruling or adoption of regulations pursuant to subsection f. of this section until either November 30, 2025 or until the license holder is issued a premises expansion permit pursuant to this section.

f. No later than May 30, 2025, the director shall issue a special ruling or adopt regulations necessary to effectuate the purposes of this section. Regulations shall be effective immediately upon filing with the Office of Administrative Law for a period not to exceed 18 months and may, thereafter, be amended, adopted or readopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.40:55D-166 Outdoor spaces, extension of business premises, other than sale of alcoholic beverages, application filing, municipal zoning officer.

3. a. Notwithstanding the provisions of any law to the contrary, the owner or operator of a restaurant that does not sell alcoholic beverages and the holder of an alcoholic beverage manufacturer license or retail consumption license may use, for purposes other than selling alcoholic beverages in such spaces as authorized pursuant to section 2 of P.L.2024, c.95 (C.40:55D-165), outdoor spaces as an extension of their business premises that they own or

lease and that are located either on their business premises contiguous to the business premises, or in a non-contiguous location.

b. The owner or operator of a restaurant that does not sell alcoholic beverages and the holder of an alcoholic beverage manufacturer license or retail consumption license seeking to utilize, for purposes other than selling alcoholic beverages in such spaces as authorized pursuant to section 2 of P.L.2024, c.95 (C.40:55D-165), outdoor spaces as an extension of their businesses shall file an application with the municipal zoning officer. The application to the municipal zoning officer shall include:

(1) a plan, sketch, picture, or drawing that depicts the design, dimensional boundaries, and placement of tents, canopies, umbrellas, tables, chairs, and other fixtures of the outdoor spaces; and

(2) a plan for the control of litter, the removal and storage of garbage, and the cleaning of fixtures and grounds. If a business premises' parking lot is used for the service and sale of either food or beverages, or both, the owner or operator of a restaurant that does not sell alcoholic beverages and the holder of an alcoholic beverage manufacturer license or retail consumption license shall not encumber more than 75 percent of the lot's total parking spaces for service and sale, unless the parking lot contains less than eight parking spaces, and shall maintain at least one handicapped parking space in the parking lot.

c. A municipality may require that an applicant provide one or more of the following:

(1) written consent of the owner of the premises, if other than the applicant;

(2) an insurance certificate naming the municipality as an additional insured, with general liability on an occurrence with a limit of liability of at least \$1,000,000, with respect to losses arising solely from the operation of the outdoor dining facility; or

(3) an indemnification agreement with the municipality with respect to losses arising solely from the operation of the outdoor dining facility.

d. (1) The zoning officer shall issue an approval to the applicant within 15 business days of the application being submitted and deemed complete provided that the applicant meets and abides by all qualifications and requirements of P.L.2024, c.95 (C.40:55D-164 et al.), with the exception that the zoning officer may deny an application based on current violations of any other health, safety, fire, permitted use, or zoning regulation or upon any applicable law permitting the denial of a zoning permit. An application under this section shall not be considered a variance under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

(2) A municipality may deny, revoke, or temporarily suspend the permit of any applicant or permittee that violates, or is not in compliance with, any provision of P.L.2024, c.95 (C.40:55D-164 et al.) or any provision of a law, ordinance, or regulation related to health, safety, fire, permitted use, zoning, or the consumption or control of alcoholic beverages not otherwise under the jurisdiction of the Division of Alcoholic Beverage Control and may also deny, revoke, or temporarily suspend the permit of any applicant or permittee based on any action taken against the applicant or permittee by the Division of Alcoholic Beverage Control related to the division's enforcement of any law or regulation related to the consumption or control of alcoholic beverages under its jurisdiction.

(3) An appeal to any approval, denial, revocation, or suspension may be filed through the municipal clerk with the governing body of the municipality. The governing body, or its designee, shall conduct a hearing and render a decision within 30 days of the filing of the appeal. The governing body may designate a municipal official or an attorney licensed in the State of New Jersey to serve as a hearing officer in place of the governing body for the purpose of conducting said hearing and rendering said decision. Nothing in P.L.2024, c.95 (C.40:55D-

164 et al.) shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction, according to law.

e. A permit issued pursuant to this section to a restaurant without an alcoholic beverage retail license shall be subject to annual renewal.

f. A municipality that approves an application for the holder of an alcoholic beverage manufacturer license or retail consumption license shall submit its endorsement to the Director of the Division of Alcoholic Beverage Control pursuant to section 2 of P.L.2024, c.95 (C.40:55D-165).

g. The owner or operator of a restaurant that does not sell alcoholic beverages and the holder of an alcoholic beverage manufacturer license or retail consumption license who held a temporary permit issued by the municipality prior to the effective date of this act shall be entitled to convert the permit to a premises expansion permit established pursuant to this section to be used for purposes other than selling alcoholic beverages in such spaces as authorized pursuant to section 2 of P.L.2024, c.95 (C.40:55D-165). An owner or operator of a restaurant that does not sell alcoholic beverages and the holder of an alcoholic beverage manufacturer license or retail consumption license who held a temporary permit issued by the municipality prior to the effective date of this act and converts the permit pursuant to this subsection shall not be required to submit to the municipal governing authority an additional application pursuant to P.L.2024, c.95 (C.40:55D-164 et al.).

C.40:55D-167 Fixtures on private, public property, right of way, permitted use.

4. The installation and continuous use of tents, canopies, umbrellas, tables, chairs, and other fixtures on private property or public property or right of way designated by a municipality pursuant to P.L.2024, c.95 (C.40:55D-164 et al.) shall be a permitted use provided that the tent, canopy, umbrella, table, chairs, or other fixture conforms to all applicable provisions of the State Uniform Construction Code and Uniform Fire Code, which have been adopted by the Commissioner of Community Affairs pursuant to P.L.1975, c.217 (C.52:27D-119, et seq.) and P.L.1983, c.383 (C.52:27D-192 et seq.), respectively.

C.40:55D-168 Municipal ordinances, applicability, notwithstanding permitted conducting of business outdoors.

5. a. Notwithstanding any provision of P.L.2024, c.95 (C.40:55D-164 et al.) to the contrary, all other municipal ordinances pertaining to sanitation, property maintenance, noise, business days and hours of operation, and days and hours of service of alcoholic beverages shall apply, unless specifically suspended or modified by the municipality or specifically prohibited by the provisions of this section.

b. With respect to a restaurant that does not sell alcoholic beverages and the holder of a premises expansion permit issued pursuant to section 2 of P.L.2024, c.95 (C.40:55D-165) operating in outdoor spaces pursuant to section 2 of P.L.2024, c.95 (C.40:55D-165), a municipality shall not prohibit or limit the days and hours of the outdoor service of food and beverages, including alcoholic beverages, except that municipalities may prohibit or limit operations for the hours after 10:00 p.m. and between 12:00 a.m. and 11:00 a.m. on Sundays through Wednesdays, and between 12:00 a.m. and 11:00 a.m. on Thursdays through Saturdays, with the exception that a municipal ordinance prohibiting or limiting the days and hours of indoor service of food and beverages, including alcoholic beverages, may be applied to the outdoor service of food and beverages, including alcoholic beverages, as a condition of the zoning approval pursuant to section 3 of P.L.2024, c.95 (C.40:55D-166). This provision shall not be construed as overruling or prohibiting the authority of a city of the first class to impose

more restrictive time restrictions or prohibit or limit the days and hours of the outdoor service of food and beverages.

c. A municipality may either prohibit or limit the days and hours of any live performances, including musical performances, and the playing or projection of any content from a recording, streaming service, or television, cable, or Internet broadcasting service in outdoor spaces or on public sidewalks as a condition of the zoning approval pursuant to sections 3 and 4 of P.L.2024, c.95 (C.40:55D-166 and C.40:55D-167).

C.40:55D-169 Public sidewalks, outdoor spaces, considered portion of premises open to public.

6. A public sidewalk or an outdoor space, including pedestrian walkways and pedestrian malls, which is subject to a premises expansion permit issued pursuant to section 2 or section 3 of P.L.2024, c.95 (C.40:55D-165 or C.40:55D-166) shall be considered a portion of the premises that is open to the public for the purposes of section 5 of P.L.1999, c.90 (C.2C:33-27).

C.40:55D-170 Construction of act; restaurants temporarily, permanently closed, limited operation due to disciplinary, legal sanctions, entering settlement agreement.

7. Nothing in P.L.2024, c.95 (C.40:55D-164 et al.) shall be interpreted or construed as permitting or mandating the opening, expansion, or resumption of unlimited operations of a restaurant that does not sell alcoholic beverages and the holder of a COVID-19 Expansion Permit issued by the Director of the Division of Alcoholic Beverage Control pursuant to the provisions of Special Ruling No. 2020-10 or a premises expansion permit issued pursuant to section 2 of P.L.2024, c.95 (C.40:55D-165) that is closed, whether permanently or temporarily, or operating subject to limitations on its operations, service, or hours, as a result of disciplinary or legal sanctions imposed by, or entering into a settlement agreement with, a court of the State of New Jersey, a municipal court, the New Jersey Department of Law and Public Safety, the New Jersey Division of Alcoholic Beverage Control, or a municipal governing body acting as a local alcoholic beverage control board, as applicable.

8. Section 4 of P.L.2021, c.15 is amended to read as follows:

4. a. Notwithstanding the provisions of any other law to the contrary, the expiration date of any COVID-19 Expansion Permit issued by the Director of the Division of Alcoholic Beverage Control pursuant to the provisions of Special Ruling No. 2020-10 shall be November 30, 2025, except that any such permit shall expire prior to that date upon the conversion of the permit to, or issuance to the permit holder of, a premises expansion permit pursuant to section 2 of P.L.2024, c.95 (C.40:55D-165).

b. The governing body of a municipality may file with the Division of Alcoholic Beverage Control an objection to the continued operation under subsection a. of this section by any licensee or permittee the governing body finds to have:

(1) failed to follow, maintain, and enforce protocols promulgated by the Commissioner of Health or by Executive Order of the Governor in response to the COVID-19 public health emergency concerning social distancing and the use of personal protective equipment; or

(2) violated any other health, safety, fire, permitted use, or zoning regulations or ordinances not otherwise directly superseded by this section or Special Ruling No. 2020-10.

Any decision rendered, or action taken, by the Director of the Division of Alcoholic Beverage Control as a result of an objection filed by the governing body of the municipality pursuant to this subsection shall be a final agency action subject to judicial review in the Appellate Division of the Superior Court of New Jersey in accordance with the Rules of Court.

c. Nothing in this act shall preclude or limit the authority provided to the Director of the Division of Alcoholic Beverage Control pursuant to the provisions of Title 33 of the Revised Statutes or the exercise of such authority thereby.

9. Section 10 of P.L.2021, c.15 is amended to read as follows:

10. This act shall take effect on the 30th day following enactment and sections 1 through 8 shall expire at 11:59 p.m. on November 30, 2025.

C.40:55D-171 Construction of act; State-owned rights-of-way.

10. Nothing in P.L.2024, c.95 (C.40:55D-164 et al.) permits the use of State-owned rights-of-way for the purposes of outdoor dining. A permit for the use of the State rights-of-way shall be issued upon application and approval of the New Jersey Department of Transportation. For the purposes of locally owned roads that intersect the State highway system, setbacks from the State right-of-way line will be 50 feet from April 1 to October 31, and 100 feet from November 1 to March 31.

11. This act shall take effect immediately, except that subsections a. through e. of section 2 shall remain inoperative until May 30, 2025 but the director may take such anticipatory action as may be necessary to effectuate those provisions of this act.

Approved November 25, 2024.

SENATE, No. 3608

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED SEPTEMBER 19, 2024

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator VINCENT J. POLISTINA

District 2 (Atlantic)

Co-Sponsored by:

Senators Diegnan, Turner and O'Scanlon

SYNOPSIS

Permits restaurants and certain alcoholic beverage retailers and manufacturers to conduct business within designated outdoor space or on public sidewalk.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/7/2024)

1 AN ACT concerning outdoor sale of food and alcoholic beverages
2 and supplementing Title 40 of the Revised Statutes.

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 “Alcoholic beverage manufacturer license” or “license” means a
9 plenary winery license, farm winery license, out-of-State winery
10 license, limited brewery license, restricted brewery license, cidery
11 and meadery license, and craft distillery license issued pursuant to
12 R.S.33:1-10.

13 “Alcoholic beverage retail consumption license” or “license”
14 means a plenary retail consumption license, plenary retail consumption
15 license used in connection with a hotel or motel, seasonal retail
16 consumption license, or club license issued pursuant to R.S.33:1-12, or
17 a concessionaire permit issued pursuant to Title 33 of the Revised
18 Statutes that authorizes the sale of all alcoholic beverages for
19 consumption on the licensed premises.

20 “Food” means food that is cooked, prepared, sold, served, and
21 consumed on the business premises.

22 “Outdoor space” means a patio or deck, whether covered or
23 uncovered, a yard, a walkway, or a parking lot, or a portion of any
24 such space, that is located on or adjacent to the business premises,
25 which space is owned, leased, or otherwise in the lawful control of
26 the owner or operator of the business premises.

27 “Premises expansion permit” means a permit issued to a
28 manufacturer license or retail consumption license that entitles the
29 license holder to use outdoor spaces that they own or lease and that
30 are located either on, or adjacent to, their business premises, as an
31 extension of their business premises for the purpose of conducting
32 sales of food and beverages.

33 “Public sidewalk” means a sidewalk on the locally or county
34 owned public right-of-way which is adjacent to the business
35 premises, or a portion thereof.

36

37 2. a. The Director of the Division of Alcoholic Beverage
38 Control shall issue to the holder of an alcoholic beverage
39 manufacturer license or retail consumption license a premises
40 expansion permit upon application by the license holder. The permit
41 shall entitle the license holder to sell alcoholic beverages in outdoor
42 spaces that they own or lease and that are located either on, or
43 adjacent to, their business premises, as an extension of their
44 business premises.

45 b. An applicant for a premises expansion permit shall file an
46 application with the director with the following information:

47 (1) the name, address, and license number of the applicant;

1 (2) a description of the property that is the subject of the
2 application as well as a sketch or photographs of the property;

3 (3) written approval or documentation from the property owner
4 authorizing the temporary use of the expanded property by a
5 licensee if the licensed property is not owned by the license holder;
6 and

7 (4) proposed security plan for sale and service of alcoholic
8 beverages on the expanded premises including prevention of pass-
9 offs, underage drinking, and over-consumption;

10 c. The director shall transfer the application for a premises
11 expansion permit to the municipal clerk and police chief of the
12 municipal governing body in which the manufacturer license or
13 retail consumption license situated. For licensed premises located
14 on property owned by or under the control of any political
15 subdivision of this State, the application shall be reviewed and
16 approved by a designated administrative official and the chief law
17 enforcement officer responsible for the licensed property.

18 The director shall not approve or deny an application until it
19 receives an endorsement or approval by the appropriate governing
20 body officials.

21 d. A premises expansion permit issued pursuant to this section
22 renews on the same date that the retail consumption license or
23 manufacturer license is renewed by the license holder.

24 e. A license holder who held a temporary expansion permit
25 issued pursuant to the director's special ruling prior to the effective
26 date of this act shall be entitled to convert the permit to a premises
27 expansion permit established pursuant to this section. A license
28 holder who held the temporary expansion permit prior the effective
29 date of this act and converts the permit pursuant to this subsection
30 shall not be required to submit to the director or municipal
31 governing authority an additional application pursuant to P.L. ,
32 c. (C.) (pending before the Legislature as this bill).

33
34 3. a. Notwithstanding the provisions of any law to the
35 contrary, the owner or operator of a restaurant that does not sell
36 alcoholic beverages and the holder of an alcoholic beverage
37 manufacturer license or retail consumption license may use outdoor
38 spaces that they own or lease and that are located either on, or
39 adjacent to, their business premises, as an extension of their
40 business premises.

41 b. The owner or operator of a restaurant that does not sell
42 alcoholic beverages and the holder of an alcoholic beverage
43 manufacturer license or retail consumption license seeking to utilize
44 outdoor spaces as an extension of their businesses shall file an
45 application with the municipal zoning officer. The application to
46 the municipal zoning officer shall include:

47 (1) a plan, sketch, picture, or drawing that depicts the design,
48 dimensional boundaries, and placement of tents, canopies,

1 umbrellas, tables, chairs, and other fixtures of the outdoor spaces;
2 and

3 (2) a plan for the control of litter, the removal and storage of
4 garbage, and the cleaning of fixtures and grounds. If a business
5 premises' parking lot is used for the service and sale of either food
6 or beverages, or both, the owner or operator of a restaurant that
7 does not sell alcoholic beverages and the holder of an alcoholic
8 beverage manufacturer license or retail consumption license shall not
9 encumber more than 75 percent of the lot's total parking spaces for
10 service and sale, unless the parking lot contains less than eight
11 parking spaces, and shall maintain at least one handicapped parking
12 space in the parking lot.

13 c. A municipality may require that an applicant provide one or
14 more of the following:

15 (1) written consent of the owner of the premises, if other than
16 the applicant;

17 (2) an insurance certificate naming the municipality as an
18 additional insured, with general liability on an occurrence with a
19 limit of liability of at least \$1,000,000, with respect to losses arising
20 solely from the operation of the outdoor dining facility; or

21 (3) an indemnification agreement with the municipality with
22 respect to losses arising solely from the operation of the outdoor
23 dining facility.

24 d. (1) The zoning officer shall issue an approval to the
25 applicant within 15 business days of the application being submitted
26 and deemed complete provided that the applicant meets and abides
27 by all qualifications and requirements of P.L. , c. (C.)
28 (pending before the Legislature as this bill), with the exception that
29 the zoning officer may deny an application based on current
30 violations of any other health, safety, fire, permitted use, or zoning
31 regulation, or upon any applicable law permitting the denial of a
32 zoning permit. An application under this section shall not be
33 considered a variance under the "Municipal Land Use Law,"
34 P.L.1975, c.291 (C.40:55D-1 et seq.).

35 (2) A municipality may deny, revoke, or temporarily suspend
36 the permit of any applicant or permittee that violates, or is not in
37 compliance with, any provision of P.L. , c. (C.) (pending
38 before the Legislature as this bill) or any provision of a law,
39 ordinance, or regulation related to health, safety, fire, permitted use,
40 zoning, or the consumption or control of alcoholic beverages not
41 otherwise under the jurisdiction of the Division of Alcoholic
42 Beverage Control, and may also deny, revoke, or temporarily
43 suspend the permit of any applicant or permittee based on any
44 action taken against the applicant or permittee by the Division of
45 Alcoholic Beverage Control related to the division's enforcement of
46 any law or regulation related to the consumption or control of
47 alcoholic beverages under its jurisdiction.

1 (3) An appeal to any approval, denial, revocation, or suspension
2 may be filed through the municipal clerk with the governing body
3 of the municipality. The governing body, or its designee, shall
4 conduct a hearing and render a decision within 30 days of the filing
5 of the appeal. The governing body may designate a municipal
6 official or an attorney licensed in the State of New Jersey to serve
7 as a hearing officer in place of the governing body for the purpose
8 of conducting said hearing and rendering said decision. Nothing in
9 P.L. , c. (C.) (pending before the Legislature as this bill)
10 shall be construed to restrict the right of any party to obtain a
11 review by any court of competent jurisdiction, according to law.

12 e. A permit issued pursuant to this section to a restaurant
13 without an alcoholic beverage retail license shall renew annually.

14 f. A municipality that approves an application for the holder of
15 an alcoholic beverage manufacturer license or retail consumption
16 license shall submit its endorsement to the Director of the Division of
17 Alcoholic Beverage Control pursuant to section 2 of P.L. , c. (C.)
18 (pending before the Legislature as this bill).

19 g. The owner or operator of a restaurant that does not sell
20 alcoholic beverages and the holder of an alcoholic beverage
21 manufacturer license or retail consumption license who held a
22 temporary permit issued by the municipality prior to the effective
23 date of this act shall be entitled to convert the permit to a premises
24 expansion permit established pursuant to this section. An owner or
25 operator of a restaurant that does not sell alcoholic beverages and
26 the holder of an alcoholic beverage manufacturer license or retail
27 consumption license who held a temporary permit issued by the
28 municipality prior prior the effective date of this act and converts
29 the permit pursuant to this subsection shall not be required to
30 municipal governing authority an additional application pursuant to
31 P.L. , c. (C.) (pending before the Legislature as this bill).

32
33 4. The installation and continuous use of tents, canopies,
34 umbrellas, tables, chairs, and other fixtures on private property or
35 public property or right of way designated by a municipality
36 pursuant to P.L. , c. (C.) (pending before the Legislature as
37 this bill) shall be a permitted use provided that the tent, canopy,
38 umbrella, table, chairs, or other fixture conforms to all applicable
39 provisions of the State Uniform Construction Code and Uniform
40 Fire Code, which have been adopted by the Commissioner of
41 Community Affairs pursuant to P.L.1975, c.217 (C.52:27D-119, et
42 seq.) and P.L.1983, c.383 (C.52:27D-192 et seq.), respectively.

43
44 5. a. Notwithstanding any provision of P.L. , c. (C.)
45 (pending before the Legislature as this bill) to the contrary, all other
46 municipal ordinances pertaining to sanitation, property
47 maintenance, noise, business days and hours of operation, and days
48 and hours of service of alcoholic beverages shall apply, unless

1 specifically suspended or modified by the municipality or
2 specifically prohibited by the provisions of this section.

3 b. With respect to a restaurant that does not sell alcoholic
4 beverages and the holder of premises expansion permit issued
5 pursuant section 2 of P.L. , c. (C.) (pending before the
6 Legislature as this bill) operating in outdoor spaces pursuant to
7 section 2 of P.L. , c. (C.) (pending before the Legislature
8 as this bill), a municipality shall not prohibit or limit the days and
9 hours of the outdoor service of food and beverages, including
10 alcoholic beverages, except that municipalities may prohibit or limit
11 operations for the hours after 10:00 p.m. and between 12:00 a.m.
12 and 11:00 a.m. on Sundays through Wednesdays, and between
13 12:00 a.m. and 11:00 a.m. on Thursdays through Saturdays, with
14 the exception that a municipal ordinance prohibiting or limiting the
15 days and hours of indoor service of food and beverages, including
16 alcoholic beverages, may be applied to the outdoor service of food
17 and beverages, including alcoholic beverages, as a condition of the
18 zoning approval pursuant to section 3 of P.L. , c. (C.)
19 (pending before the Legislature as this bill). This provision shall
20 not be construed as overruling or prohibiting the authority of a city
21 of the first class to impose more restrictive time restrictions or
22 prohibit or limit the days and hours of the outdoor service of food
23 and beverages.

24 c. A municipality may either prohibit or limit the days and
25 hours of any live performances, including musical performances,
26 and the playing or projection of any content from a recording,
27 streaming service or television, cable, or Internet broadcasting
28 service in outdoor spaces or on public sidewalks as a condition of
29 the zoning approval pursuant to sections 3 and 4 of P.L. , c. (C.)
30 (pending before the Legislature as this bill).

31

32 6. A public sidewalk or an outdoor space shall be considered a
33 portion of the premises that is open to the public for the purposes of
34 section 5 of P.L.1999, c.90 (C.2C:33-27).

35

36 7. Nothing in P.L. , c. (C.) (pending before the
37 Legislature as this bill) shall be interpreted or construed as
38 permitting or mandating the opening, expansion, or resumption of
39 unlimited operations of a restaurant that does not sell alcoholic
40 beverages and the holder of a premises expansion permit issued
41 pursuant section 2 of P.L. , c. (C.) (pending before the
42 Legislature as this bill) that is closed, whether permanently or
43 temporarily, or operating subject to limitations on its operations,
44 service, or hours, as a result of disciplinary or legal sanctions
45 imposed by, or entering into a settlement agreement with, a court of
46 the State of New Jersey, a municipal court, the New Jersey
47 Department of Law and Public Safety, the New Jersey Division of

1 Alcoholic Beverage Control, or a municipal governing body acting
2 as a local alcoholic beverage control board, as applicable.

3
4 8. Nothing in P.L. , c. (C.) (pending before the
5 Legislature as this bill) permits the use of State-owned rights-of-
6 way for the purposes of outdoor dining. A permit for the use of the
7 State rights-of-way shall be issued upon application and approval of
8 the New Jersey Department of Transportation. For the purposes of
9 locally-owned roads that intersect the State highway system,
10 setbacks from the State right-of-way line will be 50 feet from April
11 1 to October 31, and 100 feet from November 1 to March 31.

12
13 9. This act shall take effect immediately.

14
15
16 STATEMENT

17
18 This bill permits restaurants and certain alcoholic beverage
19 retailers and manufacturers to extend their premises to certain
20 outdoor locations. Under the bill, owners and operators of these
21 businesses may be permitted to use outdoor spaces, as defined in the
22 bill, that they own or lease and that are located on, or adjacent to, their
23 business premises, as an extension of their business premises for the
24 purpose of conducting sales of food and beverages, including alcoholic
25 beverages if licensed. The bill provides that alcoholic beverage
26 retailers and manufacturers are to include, the holder of a plenary retail
27 consumption license, plenary retail consumption license used in
28 connection with a hotel or motel, seasonal retail consumption license,
29 or club license or concessionaire permit, plenary winery license, farm
30 winery license, out-of-State winery license, limited brewery license,
31 restricted brewery license, cidery and meadery license, and craft
32 distillery license.

33 The bill also allows the owners and operators of those
34 establishments to use public sidewalks, as defined in the bill, as an
35 extension of their business premises for that purpose.

36 Under the bill, the Director of the Division of Alcoholic Beverage
37 Control (ABC) is to issue to the holder of an alcoholic beverage
38 manufacturer license or retail consumption license a premises
39 expansion permit upon application by the license holder. The permit is
40 to entitle the license holder to sell alcoholic beverages in outdoor
41 spaces that they own or lease and that are located either on, or
42 adjacent to, their business premises, as an extension of their
43 business premises. The ABC director would then transfer the
44 application for premises expansion permit to the municipal clerk and
45 police chief of the municipal governing body in which the
46 manufacturer license or retail consumption license situated. The
47 director would not approve or deny an application until receipt of
48 an endorsement or approval by the appropriate governing body

1 officials. The holder of a temporary expansion permit issued by the
2 ABC director prior to the bill's enactment would be entitled to
3 convert that temporary permit into a permanent permit issued under
4 the bill.

5 In addition, the bill requires owners and operators of those
6 establishments seeking to utilize outdoor spaces or public sidewalks as
7 extensions of their business premises to file an application with the
8 municipal zoning officer, including information concerning the use of
9 the outdoor spaces or public sidewalks, as appropriate, pursuant to the
10 requirements provided in the bill.

11 The installation and continuous use of tents, canopies, umbrellas,
12 tables, chairs, and other fixtures on private property or public
13 property or right of way designated by a municipality are to be a
14 permitted use provided that the tent, canopy, umbrella, table, chairs,
15 or other fixture conforms to all applicable provisions of the State
16 Uniform Construction Code and Uniform Fire Code.

17 The bill provides that all other municipal ordinances pertaining
18 to sanitation, property maintenance, noise, business days and hours
19 of operation, and days and hours of service of alcoholic beverages
20 are to apply, unless specifically suspended or modified by the
21 municipality or specifically prohibited by the provisions of the bill.

22 With respect to a restaurant, bar, distillery, or brewery operating
23 in outdoor spaces, a municipality is not to prohibit or limit the days
24 and hours of the outdoor service of food and beverages, including
25 alcoholic beverages, except that municipalities may prohibit or limit
26 operations for the hours after 10:00 p.m. and between 12:00 a.m.
27 and 11:00 a.m. on Sundays through Wednesdays, and between
28 12:00 a.m. and 11:00 a.m. on Thursdays through Saturdays, with
29 the exception that a municipal ordinance prohibiting or limiting the
30 days and hours of indoor service of food and beverages, including
31 alcoholic beverages, may be applied to the outdoor service of food
32 and beverages, including alcoholic beverages, as a condition of the
33 zoning approval pursuant to the bill. This provision shall not be
34 construed as overruling or prohibiting the authority of a city of the
35 first class to impose more restrictive time restrictions or prohibit or
36 limit the days and hours of the outdoor service of food and
37 beverages.

38 The bill provides that a municipality may either prohibit or limit
39 the days and hours of any live performances, including musical
40 performances, and the playing or projection of any content from a
41 recording, streaming service or television, cable, or Internet
42 broadcasting service in outdoor spaces or on public sidewalks as a
43 condition of the zoning approval.

44 Nothing in the bill is to be interpreted or construed as permitting
45 or mandating the opening, expansion, or resumption of unlimited
46 operations of a restaurant, bar, or brewery that is closed, whether
47 permanently or temporarily, or operating subject to limitations on
48 its operations, service, or hours, as a result of disciplinary or legal

1 sanctions imposed by, or entering into a settlement agreement with,
2 a court of the State of New Jersey, a municipal court, the New
3 Jersey Department of Law and Public Safety, the New Jersey
4 Division of Alcoholic Beverage Control, or a municipal governing
5 body acting as a local alcoholic beverage control board, as
6 applicable. Further, nothing in the bill permits the use of State-
7 owned rights-of-way for the purposes of outdoor dining. A permit
8 for the use of the State rights-of-way is to be issued upon
9 application and approval of the New Jersey Department of
10 Transportation. For the purposes of locally-owned roads that
11 intersect the State highway system, setbacks from the State right-of-
12 way line will be 50 feet from April 1 to October 31, and 100 feet
13 from November 1 to March 31.

14 Under the bill, a permit issued to a restaurant, bar, distillery, or
15 brewery with an alcoholic beverage retail license issued by the
16 Division of Alcoholic Beverage Control in the Department of Law
17 and Public Safety is to renew with that license, provided the legal
18 entity holding the license has not changed. A permit issued to a
19 restaurant without an alcoholic beverage retail license is to renew
20 annually.

[First Reprint]

SENATE, No. 3608

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED SEPTEMBER 19, 2024

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator VINCENT J. POLISTINA

District 2 (Atlantic)

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman MITCHELLE DRULIS

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman BARBARA MCCANN STAMATO

District 31 (Hudson)

Co-Sponsored by:

Senators Diegnan, Turner, O'Scanlon, Amato, A.M.Bucco, Assemblyman Sauickie, Assemblywoman Swift, Assemblyman Allen, Assemblywoman Reynolds-Jackson, Assemblyman Scharfenberger, Assemblywomen Flynn, Speight, Assemblyman Sampson, Assemblywomen Peterpaul, Donlon, Fantasia, Bagolie, Assemblymen Inganamort, DePhillips, Senators Space, McKnight and Beach

SYNOPSIS

Permits restaurants and certain alcoholic beverage retailers and manufacturers to conduct business within designated outdoor space or on public sidewalk.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on October 7, 2024, with amendments.

(Sponsorship Updated As Of: 10/28/2024)

1 AN ACT concerning outdoor sale of food and alcoholic beverages
2 and supplementing Title 40 of the Revised Statutes.

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 “Alcoholic beverage manufacturer license” or “license” means a
9 plenary winery license, farm winery license, out-of-State winery
10 license, limited brewery license, restricted brewery license, cidery and
11 meadery license, and craft distillery license issued pursuant to
12 R.S.33:1-10.

13 “Alcoholic beverage retail consumption license” or “license”
14 means a plenary retail consumption license, plenary retail consumption
15 license used in connection with a hotel or motel, seasonal retail
16 consumption license, or club license issued pursuant to R.S.33:1-12, or
17 a concessionaire permit issued pursuant to Title 33 of the Revised
18 Statutes that authorizes the sale of all alcoholic beverages for
19 consumption on the licensed premises.

20 “Food” means food that is cooked, prepared, sold, served, and
21 consumed on the business premises.

22 “Outdoor space” means a patio or deck, whether covered or
23 uncovered, a yard, a walkway, or a parking lot, or a portion of any
24 such space, that is located on ¹**[or adjacent to]**¹ the business premises,
25 ¹contiguous to the business premises, or in a non-contiguous location
26 in accordance with paragraph (2) of subsection a. of section 2 of
27 P.L. , c. (C.) (pending before the Legislature as this bill)¹ which
28 space is owned, leased, or otherwise in the lawful control of the owner
29 or operator of the business premises.

30 “Premises expansion permit” means a permit issued to a
31 manufacturer ¹**[license]** license holder¹ or retail consumption
32 ¹**[license]** license holder¹ that entitles the license holder to use
33 outdoor spaces ¹as an extension of their business premises¹ that they
34 own or lease and that are located either on ¹**[, or adjacent to,]**¹ their
35 business premises, ¹**[as an extension of their business premises]**
36 contiguous to the business premises, or in a non-contiguous location in
37 accordance with paragraph (2) of subsection a. of section 2 of P.L. ,
38 c. (C.) (pending before the Legislature as this bill)¹ for the purpose
39 of conducting sales of food and beverages.

40 “Public sidewalk” means a sidewalk on the locally or county
41 owned public right-of-way which is adjacent to the business premises,
42 or a portion thereof.

43

44 2. a. ¹(1)¹ The Director of the Division of Alcoholic Beverage
45 Control shall issue to the holder of an alcoholic beverage manufacturer

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 SBA committee amendments adopted October 7, 2024.

1 license or retail consumption license a premises expansion permit
2 upon application by the license holder. The permit shall entitle the
3 license holder to sell alcoholic beverages in outdoor spaces ¹as an
4 extension of their business premises¹ that they own or lease and that
5 are located either on ¹], or adjacent to,]¹ their business premises, ¹[as
6 an extension of their business premises] contiguous to the business
7 premises, or in a non-contiguous location in accordance with
8 paragraph (2) of this subsection¹.

9 ¹(2) The permit shall entitle the license holder to expand the licensed
10 premises to non-contiguous property, provided the property is in
11 reasonable proximity to the licensed premises and the license holder
12 has established safeguards to ensure that alcoholic beverages will be
13 sold and served in accordance with Title 33 of the Revised Statutes. A
14 license holder who obtains a premises expansion permit for a
15 contiguous and non-contiguous property shall demonstrate that the
16 license holder has a possessory interest and control over the property
17 and shall be entitled to exercise the same privileges afforded on the
18 existing licensed premises.¹

19 b. An applicant for a premises expansion permit shall file an
20 application with the director with the following information:

21 (1) the name, address, and license number of the applicant;

22 (2) a description of the property that is the subject of the
23 application as well as a sketch or photographs of the property;

24 (3) written approval or documentation from the property owner
25 authorizing the temporary use of the expanded property by a licensee
26 if the licensed property is not owned by the license holder; and

27 (4) proposed security plan for sale and service of alcoholic
28 beverages on the expanded premises including prevention of pass-offs,
29 underage drinking, and over-consumption ¹];]¹.

30 c. The director shall transfer the application for a premises
31 expansion permit to the municipal clerk and police chief of the
32 municipal governing body in which the manufacturer license or retail
33 consumption license ¹is¹ situated. For licensed premises located on
34 property owned by or under the control of any political subdivision of
35 this State, the application shall be reviewed and approved by a
36 designated administrative official and the chief law enforcement
37 officer responsible for the licensed property.

38 The director shall not approve or deny an application until it
39 receives an endorsement or approval by the appropriate governing
40 body officials.

41 d. A premises expansion permit issued pursuant to this section
42 renews on the same date that the retail consumption license or
43 manufacturer license is renewed by the license holder.

44 e. A license holder who held a temporary expansion permit issued
45 pursuant to the director's special ruling prior to the effective date of
46 this act shall be entitled to convert the permit to a premises expansion
47 permit established pursuant to this section. A license holder who held

1 the temporary expansion permit prior ¹to¹ the effective date of this act
2 and converts the permit pursuant to this subsection shall not be
3 required to submit to the director or municipal governing authority an
4 additional application pursuant to P.L. , c. (C.) (pending
5 before the Legislature as this bill).

6
7 3. a. Notwithstanding the provisions of any law to the contrary,
8 the owner or operator of a restaurant that does not sell alcoholic
9 beverages and the holder of an alcoholic beverage manufacturer
10 license or retail consumption license may use outdoor spaces ¹as an
11 extension of their business premises¹ that they own or lease and that
12 are located either on ¹[, or adjacent to,]¹ their business premises ¹[, as
13 an extension of their business premises] contiguous to the business
14 premises, or in a non-contiguous location¹.

15 b. The owner or operator of a restaurant that does not sell
16 alcoholic beverages and the holder of an alcoholic beverage
17 manufacturer license or retail consumption license seeking to utilize
18 outdoor spaces as an extension of their businesses shall file an
19 application with the municipal zoning officer. The application to the
20 municipal zoning officer shall include:

21 (1) a plan, sketch, picture, or drawing that depicts the design,
22 dimensional boundaries, and placement of tents, canopies, umbrellas,
23 tables, chairs, and other fixtures of the outdoor spaces; and

24 (2) a plan for the control of litter, the removal and storage of
25 garbage, and the cleaning of fixtures and grounds. If a business
26 premises' parking lot is used for the service and sale of either food or
27 beverages, or both, the owner or operator of a restaurant that does not
28 sell alcoholic beverages and the holder of an alcoholic beverage
29 manufacturer license or retail consumption license shall not encumber
30 more than 75 percent of the lot's total parking spaces for service and
31 sale, unless the parking lot contains less than eight parking spaces, and
32 shall maintain at least one handicapped parking space in the parking
33 lot.

34 c. A municipality may require that an applicant provide one or
35 more of the following:

36 (1) written consent of the owner of the premises, if other than the
37 applicant;

38 (2) an insurance certificate naming the municipality as an
39 additional insured, with general liability on an occurrence with a limit
40 of liability of at least \$1,000,000, with respect to losses arising solely
41 from the operation of the outdoor dining facility; or

42 (3) an indemnification agreement with the municipality with
43 respect to losses arising solely from the operation of the outdoor
44 dining facility.

45 d. (1) The zoning officer shall issue an approval to the applicant
46 within 15 business days of the application being submitted and deemed
47 complete provided that the applicant meets and abides by all

1 qualifications and requirements of P.L. , c. (C.) (pending
2 before the Legislature as this bill), with the exception that the zoning
3 officer may deny an application based on current violations of any
4 other health, safety, fire, permitted use, or zoning regulation, or upon
5 any applicable law permitting the denial of a zoning permit. An
6 application under this section shall not be considered a variance under
7 the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.).

8 (2) A municipality may deny, revoke, or temporarily suspend the
9 permit of any applicant or permittee that violates, or is not in
10 compliance with, any provision of P.L. , c. (C.) (pending
11 before the Legislature as this bill) or any provision of a law, ordinance,
12 or regulation related to health, safety, fire, permitted use, zoning, or
13 the consumption or control of alcoholic beverages not otherwise under
14 the jurisdiction of the Division of Alcoholic Beverage Control, and
15 may also deny, revoke, or temporarily suspend the permit of any
16 applicant or permittee based on any action taken against the applicant
17 or permittee by the Division of Alcoholic Beverage Control related to
18 the division’s enforcement of any law or regulation related to the
19 consumption or control of alcoholic beverages under its jurisdiction.

20 (3) An appeal to any approval, denial, revocation, or suspension
21 may be filed through the municipal clerk with the governing body of
22 the municipality. The governing body, or its designee, shall conduct a
23 hearing and render a decision within 30 days of the filing of the
24 appeal. The governing body may designate a municipal official or an
25 attorney licensed in the State of New Jersey to serve as a hearing
26 officer in place of the governing body for the purpose of conducting
27 said hearing and rendering said decision. Nothing in P.L. , c.
28 (C.) (pending before the Legislature as this bill) shall be
29 construed to restrict the right of any party to obtain a review by any
30 court of competent jurisdiction, according to law.

31 e. A permit issued pursuant to this section to a restaurant without
32 an alcoholic beverage retail license shall renew annually.

33 f. A municipality that approves an application for the holder of an
34 alcoholic beverage manufacturer license or retail consumption license
35 shall submit its endorsement to the Director of the Division of
36 Alcoholic Beverage Control pursuant to section 2 of P.L. , c.
37 (C.) (pending before the Legislature as this bill).

38 g. The owner or operator of a restaurant that does not sell
39 alcoholic beverages and the holder of an alcoholic beverage
40 manufacturer license or retail consumption license who held a
41 temporary permit issued by the municipality prior to the effective date
42 of this act shall be entitled to convert the permit to a premises
43 expansion permit established pursuant to this section. An owner or
44 operator of a restaurant that does not sell alcoholic beverages and the
45 holder of an alcoholic beverage manufacturer license or retail
46 consumption license who held a temporary permit issued by the
47 municipality prior ¹**[prior]** to¹ the effective date of this act and
48 converts the permit pursuant to this subsection shall not be required to

1 municipal governing authority an additional application pursuant to
2 P.L. , c. (C.) (pending before the Legislature as this bill).

3
4 4. The installation and continuous use of tents, canopies,
5 umbrellas, tables, chairs, and other fixtures on private property or
6 public property or right of way designated by a municipality
7 pursuant to P.L. , c. (C.) (pending before the Legislature as
8 this bill) shall be a permitted use provided that the tent, canopy,
9 umbrella, table, chairs, or other fixture conforms to all applicable
10 provisions of the State Uniform Construction Code and Uniform
11 Fire Code, which have been adopted by the Commissioner of
12 Community Affairs pursuant to P.L.1975, c.217 (C.52:27D-119, et
13 seq.) and P.L.1983, c.383 (C.52:27D-192 et seq.), respectively.

14
15 5. a. Notwithstanding any provision of P.L. , c. (C.)
16 (pending before the Legislature as this bill) to the contrary, all other
17 municipal ordinances pertaining to sanitation, property
18 maintenance, noise, business days and hours of operation, and days
19 and hours of service of alcoholic beverages shall apply, unless
20 specifically suspended or modified by the municipality or
21 specifically prohibited by the provisions of this section.

22 b. With respect to a restaurant that does not sell alcoholic
23 beverages and the holder of premises expansion permit issued
24 pursuant section 2 of P.L. , c. (C.) (pending before the
25 Legislature as this bill) operating in outdoor spaces pursuant to
26 section 2 of P.L. , c. (C.) (pending before the Legislature
27 as this bill), a municipality shall not prohibit or limit the days and
28 hours of the outdoor service of food and beverages, including
29 alcoholic beverages, except that municipalities may prohibit or limit
30 operations for the hours after 10:00 p.m. and between 12:00 a.m.
31 and 11:00 a.m. on Sundays through Wednesdays, and between
32 12:00 a.m. and 11:00 a.m. on Thursdays through Saturdays, with
33 the exception that a municipal ordinance prohibiting or limiting the
34 days and hours of indoor service of food and beverages, including
35 alcoholic beverages, may be applied to the outdoor service of food
36 and beverages, including alcoholic beverages, as a condition of the
37 zoning approval pursuant to section 3 of P.L. , c. (C.)
38 (pending before the Legislature as this bill). This provision shall
39 not be construed as overruling or prohibiting the authority of a city
40 of the first class to impose more restrictive time restrictions or
41 prohibit or limit the days and hours of the outdoor service of food
42 and beverages.

43 c. A municipality may either prohibit or limit the days and
44 hours of any live performances, including musical performances,
45 and the playing or projection of any content from a recording,
46 streaming service or television, cable, or Internet broadcasting
47 service in outdoor spaces or on public sidewalks as a condition of

1 the zoning approval pursuant to sections 3 and 4 of P.L. , c. (C.)
2 (pending before the Legislature as this bill).

3

4 6. A public sidewalk or an outdoor space ¹, including
5 pedestrian walkways and pedestrian malls,¹ shall be considered a
6 portion of the premises that is open to the public for the purposes of
7 section 5 of P.L.1999, c.90 (C.2C:33-27).

8

9 7. Nothing in P.L. , c. (C.) (pending before the
10 Legislature as this bill) shall be interpreted or construed as
11 permitting or mandating the opening, expansion, or resumption of
12 unlimited operations of a restaurant that does not sell alcoholic
13 beverages and the holder of a premises expansion permit issued
14 pursuant section 2 of P.L. , c. (C.) (pending before the
15 Legislature as this bill) that is closed, whether permanently or
16 temporarily, or operating subject to limitations on its operations,
17 service, or hours, as a result of disciplinary or legal sanctions
18 imposed by, or entering into a settlement agreement with, a court of
19 the State of New Jersey, a municipal court, the New Jersey
20 Department of Law and Public Safety, the New Jersey Division of
21 Alcoholic Beverage Control, or a municipal governing body acting
22 as a local alcoholic beverage control board, as applicable.

23

24 8. Nothing in P.L. , c. (C.) (pending before the
25 Legislature as this bill) permits the use of State-owned rights-of-
26 way for the purposes of outdoor dining. A permit for the use of the
27 State rights-of-way shall be issued upon application and approval of
28 the New Jersey Department of Transportation. For the purposes of
29 locally-owned roads that intersect the State highway system,
30 setbacks from the State right-of-way line will be 50 feet from April
31 1 to October 31, and 100 feet from November 1 to March 31.

32

33 9. This act shall take effect immediately.

[Second Reprint]

SENATE, No. 3608

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED SEPTEMBER 19, 2024

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator VINCENT J. POLISTINA

District 2 (Atlantic)

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman MITCHELLE DRULIS

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman BARBARA MCCANN STAMATO

District 31 (Hudson)

Co-Sponsored by:

Senators Diegnan, Turner, O'Scanlon, Amato, A.M.Bucco, Assemblyman Sauickie, Assemblywoman Swift, Assemblyman Allen, Assemblywoman Reynolds-Jackson, Assemblyman Scharfenberger, Assemblywomen Flynn, Speight, Assemblyman Sampson, Assemblywomen Peterpaul, Donlon, Fantasia, Bagolie, Assemblymen Inganamort, DePhillips, Senators Space, McKnight and Beach

SYNOPSIS

Permits restaurants and certain alcoholic beverage retailers and manufacturers to conduct business within designated outdoor space or on public sidewalk.

CURRENT VERSION OF TEXT

As amended by the General Assembly on October 28, 2024.

(Sponsorship Updated As Of: 10/28/2024)

1 AN ACT concerning outdoor sale of food and alcoholic beverages
2 and supplementing Title 40 of the Revised Statutes.

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 “Alcoholic beverage manufacturer license” or “license” means a
9 plenary winery license, farm winery license, ²~~out-of-State winery~~
10 ~~license,~~² limited brewery license, restricted brewery license, cidery
11 and meadery license, and craft distillery license issued pursuant to
12 R.S.33:1-10.

13 “Alcoholic beverage retail consumption license” or “license”
14 means a plenary retail consumption license, plenary retail consumption
15 license used in connection with a hotel or motel, seasonal retail
16 consumption license, or club license issued pursuant to R.S.33:1-12, or
17 a concessionaire permit issued pursuant to Title 33 of the Revised
18 Statutes that authorizes the sale of all alcoholic beverages for
19 consumption on the licensed premises.

20 “Food” means food that is cooked, prepared, sold, served, and
21 consumed on the business premises.

22 “Outdoor space” means a patio or deck, whether covered or
23 uncovered, a yard, a walkway, or a parking lot, or a portion of any
24 such space, that is located on ¹~~or adjacent to~~¹ the business premises,
25 ¹contiguous to the business premises, or in a non-contiguous location
26 in accordance with paragraph (2) of subsection a. of section 2 of
27 P.L. , c. (C.) (pending before the Legislature as this bill)¹ which
28 space is owned, leased, or otherwise in the lawful control of the owner
29 or operator of the business premises.

30 “Premises expansion permit” means a permit issued to a
31 manufacturer ¹~~license~~¹ license holder¹ or retail consumption
32 ¹~~license~~¹ license holder¹ that entitles the license holder to use
33 outdoor spaces ¹as an extension of their business premises¹ that they
34 own or lease and that are located either on ¹~~or adjacent to,~~¹ their
35 business premises, ¹as an extension of their business premises¹
36 contiguous to the business premises, or in a non-contiguous location in
37 accordance with paragraph (2) of subsection a. of section 2 of P.L. ,
38 c. (C.) (pending before the Legislature as this bill)¹ for the purpose
39 of conducting sales of food and beverages ²as allowed by law².

40 “Public sidewalk” means a sidewalk on the locally or county
41 owned public right-of-way which is adjacent to the business premises,
42 or a portion thereof.

43

44 2. a. ¹(1)¹ ²~~The~~² Following the issuance of a special ruling or
45 adoption of regulations pursuant to subsection f. of this section, the²

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 SBA committee amendments adopted October 7, 2024.

²Assembly floor amendments adopted October 28, 2024.

1 Director of the Division of Alcoholic Beverage Control shall issue to
2 the holder of an alcoholic beverage manufacturer license or retail
3 consumption license a premises expansion permit upon application by
4 the license holder. ²Application for the permit shall be made on an
5 annual basis and the administrative fee for the permit shall be fixed by
6 the director.² The permit shall entitle the license holder to sell
7 alcoholic beverages in outdoor spaces ¹as an extension of their
8 business premises¹ that they own or lease and that are located either on
9 ¹[, or adjacent to,]¹ their business premises, ¹[as an extension of their
10 business premises] contiguous to the business premises, or in a non-
11 contiguous location in accordance with paragraph (2) of this
12 subsection¹. ²The director may impose any conditions upon the
13 issuance or renewal of this permit deemed necessary and proper to
14 achieve the objectives of this section.²

15 ¹(2) The permit shall entitle the license holder to expand the
16 licensed premises to non-contiguous property, provided the property is
17 in reasonable proximity to the licensed premises and the license holder
18 has established safeguards to ensure that alcoholic beverages will be
19 sold and served in accordance with Title 33 of the Revised Statutes. A
20 license holder who obtains a premises expansion permit for a
21 contiguous and non-contiguous property shall demonstrate that the
22 license holder has a possessory interest and control over the property
23 and shall be entitled to exercise the same privileges afforded on the
24 existing licensed premises.¹

25 b. An applicant for a premises expansion permit shall file an
26 application with the director with the following information:

27 (1) the name, address, and license number of the applicant;

28 (2) a description of the property that is the subject of the
29 application as well as a sketch or photographs of the property;

30 (3) written approval or documentation from the property owner
31 authorizing the temporary use of the expanded property by a licensee
32 if the licensed property is not owned by the license holder; and

33 (4) proposed security plan for sale and service of alcoholic
34 beverages on the expanded premises including prevention of pass-offs,
35 underage drinking, and over-consumption ¹[:] ¹

36 c. The director shall ²[transfer] transmit² the application for a
37 premises expansion permit to the municipal clerk and police chief of
38 the municipal governing body in which the manufacturer license or
39 retail consumption license ¹is¹ situated. For licensed premises located
40 on property owned by or under the control of any political subdivision
41 of this State, the application shall be reviewed and approved by a
42 designated administrative official and the chief law enforcement
43 officer responsible for the licensed property.

44 The director shall not approve or deny an application until it
45 receives an endorsement or approval by the appropriate governing
46 body officials.

1 d. ²~~[A]~~ Following the initial issuance, the renewal date of a²
2 premises expansion permit issued pursuant to this section ²~~[renews~~
3 on] shall be² the same ²as the renewal² date ²~~[that]~~ of² the retail
4 consumption license or manufacturer license ²~~[is renewed by the~~
5 license holder]².

6 e. ²~~(1)~~² A license holder who held a temporary expansion permit
7 issued pursuant to the director's special ruling prior to the effective
8 date of this act shall be entitled ², upon notice to the director and
9 payment of a fee as shall be fixed by the director,² to convert the
10 permit to a premises expansion permit established pursuant to this
11 section. A license holder who held the temporary expansion permit
12 prior ¹to¹ the effective date of this act and converts the permit pursuant
13 to this subsection shall not be required to submit to the director or
14 municipal governing authority an additional application pursuant to
15 P.L. , c. (C.) (pending before the Legislature as this bill).

16 ²~~(2)~~ A temporary expansion permit issued pursuant to the
17 director's special ruling prior to the effective date of this act shall
18 remain in effect pending the director's issuance of a special ruling or
19 adoption of regulations pursuant to subsection f. of this section until
20 either November 30, 2025 or until the license holder is issued a
21 premises expansion permit pursuant to this section.

22 f. No later than May 30, 2025, the director shall issue a special
23 ruling or adopt regulations necessary to effectuate the purposes of this
24 section. Regulations shall be effective immediately upon filing with
25 the Office of Administrative Law for a period not to exceed 18
26 months, and may, thereafter, be amended, adopted or readopted in
27 accordance with the provisions of the "Administrative Procedure Act,"
28 P.L.1968, c.410 (C.52:14B-1 et seq.).²

29
30 3. a. Notwithstanding the provisions of any law to the contrary,
31 the owner or operator of a restaurant that does not sell alcoholic
32 beverages and the holder of an alcoholic beverage manufacturer
33 license or retail consumption license may use ², for purposes other
34 than selling alcoholic beverages in such spaces as authorized pursuant
35 to section 2 of P.L. , c. (C.) (pending before the Legislature as
36 this bill),² outdoor spaces ¹as an extension of their business premises¹
37 that they own or lease and that are located either on ¹~~[~~, or adjacent
38 to, ¹~~]~~ their business premises ¹~~[~~, as an extension of their business
39 premises] contiguous to the business premises, or in a non-contiguous
40 location¹.

41 b. The owner or operator of a restaurant that does not sell
42 alcoholic beverages and the holder of an alcoholic beverage
43 manufacturer license or retail consumption license seeking to utilize ²,
44 for purposes other than selling alcoholic beverages in such spaces as
45 authorized pursuant to section 2 of P.L. , c. (C.) (pending before
46 the Legislature as this bill),² outdoor spaces as an extension of their

1 businesses shall file an application with the municipal zoning officer.

2 The application to the municipal zoning officer shall include:

3 (1) a plan, sketch, picture, or drawing that depicts the design,
4 dimensional boundaries, and placement of tents, canopies, umbrellas,
5 tables, chairs, and other fixtures of the outdoor spaces; and

6 (2) a plan for the control of litter, the removal and storage of
7 garbage, and the cleaning of fixtures and grounds. If a business
8 premises' parking lot is used for the service and sale of either food or
9 beverages, or both, the owner or operator of a restaurant that does not
10 sell alcoholic beverages and the holder of an alcoholic beverage
11 manufacturer license or retail consumption license shall not encumber
12 more than 75 percent of the lot's total parking spaces for service and
13 sale, unless the parking lot contains less than eight parking spaces, and
14 shall maintain at least one handicapped parking space in the parking
15 lot.

16 c. A municipality may require that an applicant provide one or
17 more of the following:

18 (1) written consent of the owner of the premises, if other than the
19 applicant;

20 (2) an insurance certificate naming the municipality as an
21 additional insured, with general liability on an occurrence with a limit
22 of liability of at least \$1,000,000, with respect to losses arising solely
23 from the operation of the outdoor dining facility; or

24 (3) an indemnification agreement with the municipality with
25 respect to losses arising solely from the operation of the outdoor
26 dining facility.

27 d. (1) The zoning officer shall issue an approval to the applicant
28 within 15 business days of the application being submitted and deemed
29 complete provided that the applicant meets and abides by all
30 qualifications and requirements of P.L. , c. (C.) (pending
31 before the Legislature as this bill), with the exception that the zoning
32 officer may deny an application based on current violations of any
33 other health, safety, fire, permitted use, or zoning regulation, or upon
34 any applicable law permitting the denial of a zoning permit. An
35 application under this section shall not be considered a variance under
36 the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

37 (2) A municipality may deny, revoke, or temporarily suspend the
38 permit of any applicant or permittee that violates, or is not in
39 compliance with, any provision of P.L. , c. (C.) (pending
40 before the Legislature as this bill) or any provision of a law, ordinance,
41 or regulation related to health, safety, fire, permitted use, zoning, or
42 the consumption or control of alcoholic beverages not otherwise under
43 the jurisdiction of the Division of Alcoholic Beverage Control, and
44 may also deny, revoke, or temporarily suspend the permit of any
45 applicant or permittee based on any action taken against the applicant
46 or permittee by the Division of Alcoholic Beverage Control related to
47 the division's enforcement of any law or regulation related to the
48 consumption or control of alcoholic beverages under its jurisdiction.

1 (3) An appeal to any approval, denial, revocation, or suspension
2 may be filed through the municipal clerk with the governing body of
3 the municipality. The governing body, or its designee, shall conduct a
4 hearing and render a decision within 30 days of the filing of the
5 appeal. The governing body may designate a municipal official or an
6 attorney licensed in the State of New Jersey to serve as a hearing
7 officer in place of the governing body for the purpose of conducting
8 said hearing and rendering said decision. Nothing in P.L. , c.
9 (C.) (pending before the Legislature as this bill) shall be
10 construed to restrict the right of any party to obtain a review by any
11 court of competent jurisdiction, according to law.

12 e. A permit issued pursuant to this section to a restaurant without
13 an alcoholic beverage retail license shall ²**[renew annually]** be subject
14 to annual renewal².

15 f. A municipality that approves an application for the holder of an
16 alcoholic beverage manufacturer license or retail consumption license
17 shall submit its endorsement to the Director of the Division of
18 Alcoholic Beverage Control pursuant to section 2 of P.L. , c.
19 (C.) (pending before the Legislature as this bill).

20 g. The owner or operator of a restaurant that does not sell
21 alcoholic beverages and the holder of an alcoholic beverage
22 manufacturer license or retail consumption license who held a
23 temporary permit issued by the municipality prior to the effective date
24 of this act shall be entitled to convert the permit to a premises
25 expansion permit established pursuant to this section ²to be used for
26 purposes other than selling alcoholic beverages in such spaces as
27 authorized pursuant to section 2 of P.L. , c. (C.) (pending
28 before the Legislature as this bill)². An owner or operator of a
29 restaurant that does not sell alcoholic beverages and the holder of an
30 alcoholic beverage manufacturer license or retail consumption license
31 who held a temporary permit issued by the municipality prior ¹**[prior]**
32 to¹ the effective date of this act and converts the permit pursuant to
33 this subsection shall not be required to ²submit to the² municipal
34 governing authority an additional application pursuant to P.L. , c.
35 (C.) (pending before the Legislature as this bill).

36
37 4. The installation and continuous use of tents, canopies,
38 umbrellas, tables, chairs, and other fixtures on private property or
39 public property or right of way designated by a municipality
40 pursuant to P.L. , c. (C.) (pending before the Legislature as
41 this bill) shall be a permitted use provided that the tent, canopy,
42 umbrella, table, chairs, or other fixture conforms to all applicable
43 provisions of the State Uniform Construction Code and Uniform
44 Fire Code, which have been adopted by the Commissioner of
45 Community Affairs pursuant to P.L.1975, c.217 (C.52:27D-119, et
46 seq.) and P.L.1983, c.383 (C.52:27D-192 et seq.), respectively.

1 5. a. Notwithstanding any provision of P.L. , c. (C.)
2 (pending before the Legislature as this bill) to the contrary, all other
3 municipal ordinances pertaining to sanitation, property
4 maintenance, noise, business days and hours of operation, and days
5 and hours of service of alcoholic beverages shall apply, unless
6 specifically suspended or modified by the municipality or
7 specifically prohibited by the provisions of this section.

8 b. With respect to a restaurant that does not sell alcoholic
9 beverages and the holder of premises expansion permit issued
10 pursuant section 2 of P.L. , c. (C.) (pending before the
11 Legislature as this bill) operating in outdoor spaces pursuant to
12 section 2 of P.L. , c. (C.) (pending before the Legislature
13 as this bill), a municipality shall not prohibit or limit the days and
14 hours of the outdoor service of food and beverages, including
15 alcoholic beverages, except that municipalities may prohibit or limit
16 operations for the hours after 10:00 p.m. and between 12:00 a.m.
17 and 11:00 a.m. on Sundays through Wednesdays, and between
18 12:00 a.m. and 11:00 a.m. on Thursdays through Saturdays, with
19 the exception that a municipal ordinance prohibiting or limiting the
20 days and hours of indoor service of food and beverages, including
21 alcoholic beverages, may be applied to the outdoor service of food
22 and beverages, including alcoholic beverages, as a condition of the
23 zoning approval pursuant to section 3 of P.L. , c. (C.)
24 (pending before the Legislature as this bill). This provision shall
25 not be construed as overruling or prohibiting the authority of a city
26 of the first class to impose more restrictive time restrictions or
27 prohibit or limit the days and hours of the outdoor service of food
28 and beverages.

29 c. A municipality may either prohibit or limit the days and
30 hours of any live performances, including musical performances,
31 and the playing or projection of any content from a recording,
32 streaming service or television, cable, or Internet broadcasting
33 service in outdoor spaces or on public sidewalks as a condition of
34 the zoning approval pursuant to sections 3 and 4 of P.L. , c. (C.)
35 (pending before the Legislature as this bill).

36
37 6. A public sidewalk or an outdoor space ¹, including
38 pedestrian walkways and pedestrian malls, ¹ which is subject to a
39 premises expansion permit issued pursuant to section 2 or section 3
40 of P.L. , c. (C.) (pending before the Legislature as this bill)²
41 shall be considered a portion of the premises that is open to the
42 public for the purposes of section 5 of P.L.1999, c.90 (C.2C:33-27).
43

44 7. Nothing in P.L. , c. (C.) (pending before the
45 Legislature as this bill) shall be interpreted or construed as permitting
46 or mandating the opening, expansion, or resumption of unlimited
47 operations of a restaurant that does not sell alcoholic beverages and the
48 holder of a ²COVID-19 Expansion Permit issued by the Director of the

1 Division of Alcoholic Beverage Control pursuant to the provisions of
2 Special Ruling No. 2020-10 or a² premises expansion permit issued
3 pursuant ²to² section 2 of P.L. , c. (C.) (pending before the
4 Legislature as this bill) that is closed, whether permanently or
5 temporarily, or operating subject to limitations on its operations,
6 service, or hours, as a result of disciplinary or legal sanctions imposed
7 by, or entering into a settlement agreement with, a court of the State of
8 New Jersey, a municipal court, the New Jersey Department of Law
9 and Public Safety, the New Jersey Division of Alcoholic Beverage
10 Control, or a municipal governing body acting as a local alcoholic
11 beverage control board, as applicable.
12

13 ²8. Section 4 of P.L.2021, c.15 is amended to read as follows:

14 4. a. Notwithstanding the provisions of any other law to the
15 contrary, the expiration date of any COVID-19 Expansion Permit
16 issued by the Director of the Division of Alcoholic Beverage Control
17 pursuant to the provisions of Special Ruling No. 2020-10 shall be
18 November 30, **[2024]** 2025, except that any such permit shall expire
19 prior to that date upon the conversion of the permit to, or issuance to
20 the permit holder of, a premises expansion permit pursuant to section 2
21 of P.L. , c. (C.)(pending before the Legislature as this bill).

22 b. The governing body of a municipality may file with the
23 Division of Alcoholic Beverage Control an objection to the continued
24 operation under subsection a. of this section by any licensee or
25 permittee the governing body finds to have:

26 (1) failed to follow, maintain, and enforce protocols promulgated
27 by the Commissioner of Health or by Executive Order of the Governor
28 in response to the COVID-19 public health emergency concerning
29 social distancing and the use of personal protective equipment; or

30 (2) violated any other health, safety, fire, permitted use, or zoning
31 regulations or ordinances not otherwise directly superseded by this
32 section or Special Ruling No. 2020-10.

33 Any decision rendered, or action taken, by the Director of the
34 Division of Alcoholic Beverage Control as a result of an objection
35 filed by the governing body of the municipality pursuant to this
36 subsection shall be a final agency action subject to judicial review in
37 the Appellate Division of the Superior Court of New Jersey in
38 accordance with the Rules of Court.

39 c. Nothing in this act shall preclude or limit the authority
40 provided to the Director of the Division of Alcoholic Beverage Control
41 pursuant to the provisions of Title 33 of the Revised Statutes or the
42 exercise of such authority thereby.²
43 (cf: P.L.2022, c.85, s.2)
44

45 ²9. Section 10 of P.L.2021, c.15 is amended to read as follows:

1 10. This act shall take effect on the 30th day following enactment
2 and sections 1 through 8 shall expire at 11:59 p.m. on November 30,
3 **[2024] 2025.**²
4 (cf: P.L.2022, c.85, s.3)

5
6 ²**[8.] 10.**² Nothing in P.L. , c. (C.) (pending before the
7 Legislature as this bill) permits the use of State-owned rights-of-
8 way for the purposes of outdoor dining. A permit for the use of the
9 State rights-of-way shall be issued upon application and approval of
10 the New Jersey Department of Transportation. For the purposes of
11 locally-owned roads that intersect the State highway system,
12 setbacks from the State right-of-way line will be 50 feet from April
13 1 to October 31, and 100 feet from November 1 to March 31.

14
15 ²**[9.] 11.**² This act shall take effect immediately ², except that
16 subsections a. through e. of section 2 shall remain inoperative until
17 May 30, 2025 but the director may take such anticipatory action as
18 may be necessary to effectuate those provisions of this act².

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3608

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 7, 2024

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 3608.

As amended, Senate Bill No. 3608 permits restaurants and certain alcoholic beverage retailers and manufacturers to extend their premises to certain outdoor locations. Under the bill, owners and operators of these businesses may be permitted to use outdoor spaces, as defined in the bill, that they own or lease and that are located on their business premises, contiguous to the business premises, or in a non-contiguous location as an extension of their business premises for the purpose of conducting sales of food and beverages, including alcoholic beverages if licensed. The bill provides that alcoholic beverage retailers and manufacturers are to include the holder of a plenary retail consumption license, plenary retail consumption license used in connection with a hotel or motel, seasonal retail consumption license, club license, concessionaire permit, plenary winery license, farm winery license, out-of-State winery license, limited brewery license, restricted brewery license, cidery and meadery license, and craft distillery license.

The bill also allows the owners and operators of those establishments to use public sidewalks, including pedestrian walkways and pedestrian malls, as an extension of their business premises for that purpose.

Under the bill, the Director of the Division of Alcoholic Beverage Control (ABC) is to issue to the holder of an alcoholic beverage manufacturer license or retail consumption license a premises expansion permit upon application by the license holder. The permit is to entitle the license holder to sell alcoholic beverages in outdoor spaces that they own or lease own or lease and that are located on their business premises, contiguous to the business premises, or in a non-contiguous location as an extension of their business premises. The permit would entitle the license holder to expand the licensed premises to non-contiguous property, provided the property is in reasonable proximity to the licensed premises and the license holder has established safeguards to ensure that alcoholic beverages will be sold and served in accordance with current law. A license holder who obtains a premises expansion permit for contiguous and non-contiguous property would be required to demonstrate that the license

holder has a possessory interest and control over the property and is entitled to exercise the same privileges afforded on the existing licensed premises.

The ABC director would transfer the application for premises expansion permit to the municipal clerk and police chief of the municipal governing body in which the manufacturer license or retail consumption license situated. The director would not approve or deny an application until receipt of an endorsement or approval by the appropriate governing body officials. The holder of a temporary expansion permit issued by the ABC director prior to the bill's enactment would be entitled to convert that temporary permit into a permanent permit issued under the bill.

In addition, the bill requires owners and operators of those establishments seeking to utilize outdoor spaces or public sidewalks as extensions of their business premises to file an application with the municipal zoning officer, including information concerning the use of the outdoor spaces or public sidewalks, as appropriate, pursuant to the requirements provided in the bill.

The installation and continuous use of tents, canopies, umbrellas, tables, chairs, and other fixtures on private property or public property or right of way designated by a municipality are to be a permitted use provided that the tent, canopy, umbrella, table, chairs, or other fixture conforms to all applicable provisions of the State Uniform Construction Code and Uniform Fire Code.

The bill provides that all other municipal ordinances pertaining to sanitation, property maintenance, noise, business days and hours of operation, and days and hours of service of alcoholic beverages are to apply, unless specifically suspended or modified by the municipality or specifically prohibited by the provisions of the bill.

With respect to a restaurant, bar, distillery, or brewery operating in outdoor spaces, a municipality is not to prohibit or limit the days and hours of the outdoor service of food and beverages, including alcoholic beverages, except that municipalities may prohibit or limit operations for the hours after 10:00 p.m. and between 12:00 a.m. and 11:00 a.m. on Sundays through Wednesdays, and between 12:00 a.m. and 11:00 a.m. on Thursdays through Saturdays, with the exception that a municipal ordinance prohibiting or limiting the days and hours of indoor service of food and beverages, including alcoholic beverages, may be applied to the outdoor service of food and beverages, including alcoholic beverages, as a condition of the zoning approval pursuant to the bill. This provision shall not be construed as overruling or prohibiting the authority of a city of the first class to impose more restrictive time restrictions or prohibit or limit the days and hours of the outdoor service of food and beverages.

The bill provides that a municipality may either prohibit or limit the days and hours of any live performances, including musical performances, and the playing or projection of any content from a

recording, streaming service or television, cable, or Internet broadcasting service in outdoor spaces or on public sidewalks as a condition of the zoning approval.

Nothing in the bill is to be interpreted or construed as permitting or mandating the opening, expansion, or resumption of unlimited operations of a restaurant, bar, or brewery that is closed, whether permanently or temporarily, or operating subject to limitations on its operations, service, or hours, as a result of disciplinary or legal sanctions imposed by, or entering into a settlement agreement with, a court of the State of New Jersey, a municipal court, the New Jersey Department of Law and Public Safety, the New Jersey Division of Alcoholic Beverage Control, or a municipal governing body acting as a local alcoholic beverage control board, as applicable. Further, nothing in the bill permits the use of State-owned rights-of-way for the purposes of outdoor dining. A permit for the use of the State rights-of-way is to be issued upon application and approval of the New Jersey Department of Transportation. For the purposes of locally-owned roads that intersect the State highway system, setbacks from the State right-of-way line will be 50 feet from April 1 to October 31, and 100 feet from November 1 to March 31.

Under the bill, a permit issued to a restaurant, bar, distillery, or brewery with an alcoholic beverage retail license issued by the Division of Alcoholic Beverage Control in the Department of Law and Public Safety is to renew with that license, provided the legal entity holding the license has not changed. A permit issued to a restaurant without an alcoholic beverage retail license is to renew annually.

COMMITTEE AMENDMENTS

The committee amended the bill to:

1) allow business owners to use outdoor spaces located on their business premises, contiguous to the business premises, or in a non-contiguous location as an extension of their business premises; as introduced, the bill allowed the business to be extended to adjacent property;

2) clarify that an extended premises is required to be in reasonable proximity to an alcoholic beverage licensed premises and the license holder has established safeguards to ensure that alcoholic beverages will be sold and served in accordance with current law;

3) clarify that an alcoholic beverage license holder who obtains a premises expansion permit for contiguous and non-contiguous property is to demonstrate that the license holder has a possessory interest and control over the property and are entitled to exercise the same privileges afforded on the existing licensed premises; and

4) clarify that a business may extend its premises to pedestrian walkways and pedestrian malls.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the bill may result in indeterminate increases in annual State and municipal revenues and expenditures. The OLS estimates the bill may increase expenses for the Division for Alcoholic Beverage Control in the Department of Law and Public Safety, the Department of Transportation, and municipalities. Further, the bill may result in an indeterminate impact on potential State and municipal revenues collected from the total number of premises expansion permits issued annually; future license fees; sales tax on products sold; and any penalty collections from certain restaurants, bars, distilleries, and breweries that expand their premises.

P.L.2022, c.85 extended the expiration date of the COVID-19 Expansion of Premise Permits, issued pursuant to Special Ruling No. 2020-10 by the Division of Alcoholic Beverage Control, until November 30, 2024. This bill establishes a permanent Expansion of Premise Permit licensure and application process.

The bill requires a zoning officer to approve a compliant application, along with other documentation as may be required by the municipality, within 15 business days of being submitted. The OLS does not know the current fees, if any, charged by municipalities to process these applications.

STATEMENT TO
[First Reprint]
SENATE, No. 3608

with Assembly Floor Amendments
(Proposed by Assemblyman FREIMAN)

ADOPTED: OCTOBER 28, 2024

First Reprint to Senate Bill No. 3608 permits restaurants and certain alcoholic beverage retailers and manufacturers to extend their premises to certain outdoor locations. Under the bill, owners and operators of these businesses may be permitted to use outdoor spaces, as defined in the bill, that they own or lease and that are located on their business premises, contiguous to the business premises, or in a non-contiguous location as an extension of their business premises for the purpose of conducting sales of food and beverages, including alcoholic beverages if licensed.

These Senate amendments make various revisions pertaining to the issuance of premises expansion permits. Specifically, the amendments remove “out-of-State winery license” from the definition of “alcoholic beverage manufacturer license.” The amendments also provide that the Director of the Division of Alcoholic Beverage Control (ABC) would be required to issue premises expansion permits until after the issuance of a special ruling or adoption of regulations to effectuate the purposes of the bill, which are required to be issued or adopted no later than May 30, 2025. In addition, the amendments provide that temporary expansion permits issued prior to the effective date of the bill will remain in effect until either November 30, 2025 or until a license holder is issued a premises expansion permit pursuant to the provisions of the bill, whichever first occurs.

The amendments also clarify that a temporary premises expansion permit will expire upon conversion to a permit that may be annually renewed, upon notice and payment of a fee to the Director of ABC. Finally, the amendments clarify that an application filed with the municipal zoning officer is to include the purposes for the permit’s use other than the sale of alcoholic beverages.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 3608
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: OCTOBER 8, 2024

SUMMARY

Synopsis: Permits restaurants and certain alcoholic beverage retailers to conduct business within designated outdoor space or on public sidewalk.

Type of Impact: Annual State and municipal revenue and expenditure increases.

Agencies Affected: Department of Law and Public Safety; Department of Transportation; and municipalities.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State and Local Expenditure Increases	Indeterminate
Annual State and Local Revenue Increases	Indeterminate

- The Office of Legislative Services (OLS) finds that the bill may result in indeterminate increases in annual State and municipal revenues and expenditures. The OLS estimates the bill may increase expenses for the Division for Alcoholic Beverage Control in the Department of Law and Public Safety, the Department of Transportation, and municipalities. Further, the bill may result in an indeterminate impact on potential State and municipal revenues collected from the total number of premises expansion permits issued annually; future license fees; sales tax on products sold; and any penalty collections from certain restaurants, bars, distilleries, and breweries that expand their premises.
- P.L.2022, c.85 extended the expiration date of the COVID-19 Expansion of Premise Permits, issued pursuant to Special Ruling No. 2020-10 by the Division of Alcoholic Beverage Control, until November 30, 2024. This bill establishes a permanent Expansion of Premise Permit licensure and application process.
- The bill requires a zoning officer to approve a compliant application, along with other documentation as may be required by the municipality, within 15 business days of being submitted. The OLS does not know the current fees, if any, charged by municipalities to process these applications.

BILL DESCRIPTION

This bill permits restaurants and certain alcoholic beverage retailers and manufacturers to extend their premises to certain outdoor locations. Under the bill, owners and operators of these businesses may be permitted to use outdoor spaces that they own or lease and that are located on, or adjacent to, their business premises, as an extension of their business premises for the purpose of conducting sales of food and beverages, including alcoholic beverages if licensed.

The bill requires the Director of the Division of Alcoholic Beverage Control to issue to the holder of an alcoholic beverage manufacturer license or retail consumption license a premises expansion permit upon application by the license holder. The permit is to entitle the license holder to sell alcoholic beverages in outdoor spaces that they own or lease and that are located either on, or adjacent to, their business premises, as an extension of their business premises. The director would then transfer the application for premises expansion permit to the municipal clerk and police chief of the municipal governing body in which the manufacturer license or retail consumption license is situated. The director would not approve or deny an application until receipt of an endorsement or approval by the appropriate governing body officials. The holder of a temporary premises expansion permit issued by the director prior to the bill's enactment would be entitled to convert that temporary permit into a permanent permit issued under the bill.

In addition, the bill requires owners and operators of those establishments seeking to utilize outdoor spaces or public sidewalks as extensions of their business premises to file an application with the municipal zoning officer, including information concerning the use of the outdoor spaces or public sidewalks, as appropriate, pursuant to the requirements provided in the bill. The bill requires a zoning officer to approve a compliant application within 15 business days of being submitted. An appeal to any approval, denial, revocation, or suspension may be filed through the municipal clerk with the governing body of the municipality. The governing body is required to conduct a hearing and render a decision within 30 days of the filing of the appeal.

A permit for the use of the State rights-of-way is to be issued upon application and approval of the New Jersey Department of Transportation. For the purposes of locally-owned roads that intersect the State highway system, setbacks from the State right-of way line will be 50 feet from April 1 to October 31, and 100 feet from November 1 to March 31.

The bill provides that all other municipal ordinances pertaining to sanitation, property maintenance, noise, business days and hours of operation, and days and hours of service of alcoholic beverages are to apply, unless specifically suspended or modified by the municipality or specifically prohibited by the provisions of the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will result in indeterminate increases in annual State and municipal revenues and expenditures. The OLS estimates the bill may increase expenses for the Division for Alcoholic Beverage Control in the Department of Law and Public Safety, the Department of Transportation, and municipalities. Further, the bill may result in an indeterminate impact on potential State and municipal revenues collected from the total number of licenses issued annually;

future license fees; sales tax on products sold; and any penalty collections from certain restaurants, bars, distilleries, and breweries that expand their premises.

P.L.2022, c.85 extended the expiration date of the COVID-19 Expansion of Premise Permits, issued under Special Ruling No. 2020-10 by the Division of Alcoholic Beverage Control, until November 30, 2024. The extension is set to expire, and this bill establishes a permanent Expansion of Premise Permit licensure and application process. On October 19, 2020, Special Ruling 2020-21 issued by the division allowed for over 2,300 permits to be extended to March 31, 2021. The OLS has not received an updated number of the permits issued since March of 2021.

State Expenditure Impacts: Currently, once a premises expansion permit is approved by a municipal government, the Director of the Division of Alcoholic Beverage Control issues the holder of an alcoholic beverage manufacturer license or retail consumption license a premises expansion permit upon application by the license holder. Those license holders who held a temporary expansion permit issued pursuant to the director's special ruling (2020-10) at the time were entitled to convert the permit to an Expansion of Premise Permit. A permit issued to a restaurant without an alcoholic beverage retail license is permitted to renew annually.

Further, a permit for the use of the State rights-of-way is to be issued upon application and approval of the New Jersey Department of Transportation.

Depending on the resource allocation policies of the respective departments, the added workload may or may not augment State administrative expenditures. The OLS further indicates that this process has been in place for over four years, and it cannot predict how many additional establishments may consider this permit to expand their premises if the permit is made permanent.

Municipal Expenditure Impacts: The bill may increase costs to municipalities associated with the administration, regulation, and enforcement related to the premises expansion permits. Pursuant to the bill, a zoning officer is required to approve a compliant application within 15 business days of being submitted. An appeal to any approval, denial, revocation, or suspension may be filed through the municipal clerk with the governing body of the municipality. The governing body is required to conduct a hearing and render a decision within 30 days of the filing of the appeal.

The OLS notes the bill may impact municipal law enforcement resources, as there may be an increased need for enforcement of alcoholic beverage statutes and ordinances. Local governments may also incur nominal additional costs to ensure that health protocols are being adhered to at restaurants, bars, distilleries, and breweries with expanded premises.

State and Municipal Revenue Impacts: This bill may increase State revenue from the expansion of the sale of products in expanded businesses which obtain the permit. Additionally, the OLS anticipates that expansion of a premises would increase the number of patrons, thereby increasing the overall sale of alcohol beverage products and increasing the amount of State sales tax collected by the Division of Taxation in the Department of the Treasury.

The OLS does not have information on how many municipalities, if any, are charging application fees for the expansion permits or for the municipal zoning application. The OLS concludes that the bill could result in a potential indeterminate increase in municipal revenues if municipalities pass an ordinance allowing application fees to be charged, if they have not done so already.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Lead Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3608 STATE OF NEW JERSEY 221st LEGISLATURE

DATED: OCTOBER 16, 2024

SUMMARY

- Synopsis:** Permits restaurants and certain alcoholic beverage retailers to conduct business within designated outdoor space or on public sidewalk.
- Type of Impact:** Annual State and municipal revenue and expenditure increases.
- Agencies Affected:** Department of Law and Public Safety; Department of Transportation; and municipalities.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State and Local Expenditure Increases	Indeterminate
Annual State and Local Revenue Increases	Indeterminate

- The Office of Legislative Services (OLS) finds that the bill may result in indeterminate increases in annual State and municipal revenues and expenditures. The OLS estimates the bill may increase expenses for the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, the Department of Transportation, and municipalities. Further, the bill may result in an indeterminate impact on potential State and municipal revenues collected from the total number of premises expansion permits issued annually; future license fees; sales tax on products sold; and any penalty collections from certain restaurants, bars, distilleries, and breweries that expand their premises.
- P.L.2022, c.85 extended the expiration date of the COVID-19 Expansion of Premise Permits, issued pursuant to Special Ruling No. 2020-10 by the Division of Alcoholic Beverage Control, until November 30, 2024. This bill establishes a permanent Expansion of Premise Permit licensure and application process.
- The bill requires a zoning officer to approve a compliant application, along with other documentation as may be required by the municipality, within 15 business days of being submitted. The OLS does not know the current fees, if any, charged by municipalities to process these applications.

BILL DESCRIPTION

This bill permits restaurants and certain alcoholic beverage retailers and manufacturers to extend their premises to certain outdoor locations. Under the bill, owners and operators of these businesses may be permitted to use outdoor spaces that they own or lease and that are located on the business premises, contiguous to the business premises, or in a non-contiguous location as an extension of their business premises for the purpose of conducting sales of food and beverages, including alcoholic beverages if licensed.

The bill requires the Director of the Division of Alcoholic Beverage Control to issue to the holder of an alcoholic beverage manufacturer license or retail consumption license a premises expansion permit upon application by the license holder. The permit is to entitle the license holder to sell alcoholic beverages in certain outdoor spaces, including walkways and pedestrian malls, as an extension of their business premises. The director would then transfer the application for premises expansion permit to the municipal clerk and police chief of the municipal governing body in which the manufacturer license or retail consumption license is situated. The director would not approve or deny an application until receipt of an endorsement or approval by the appropriate governing body officials. The holder of a temporary premises expansion permit issued by the director prior to the bill's enactment would be entitled to convert that temporary permit into a permanent permit issued under the bill.

In addition, the bill requires owners and operators of those establishments seeking to utilize outdoor spaces or public sidewalks, including pedestrian walkways and pedestrian malls, as extensions of their business premises to file an application with the municipal zoning officer, including information concerning the use of the outdoor spaces or public sidewalks, as appropriate, pursuant to the requirements provided in the bill. The bill requires a zoning officer to approve a compliant application within 15 business days of being submitted. An appeal to any approval, denial, revocation, or suspension may be filed through the municipal clerk with the governing body of the municipality. The governing body is required to conduct a hearing and render a decision within 30 days of the filing of the appeal.

A permit for the use of the State rights-of-way is to be issued upon application and approval of the New Jersey Department of Transportation. For the purposes of locally-owned roads that intersect the State highway system, setbacks from the State right-of-way line will be 50 feet from April 1 to October 31, and 100 feet from November 1 to March 31.

The bill provides that all other municipal ordinances pertaining to sanitation, property maintenance, noise, business days and hours of operation, and days and hours of service of alcoholic beverages are to apply, unless specifically suspended or modified by the municipality or specifically prohibited by the provisions of the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will result in indeterminate increases in annual State and municipal revenues and expenditures. The OLS estimates the bill may increase expenses for the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, the Department of

Transportation, and municipalities. Further, the bill may result in an indeterminate impact on potential State and municipal revenues collected from the total number of licenses issued annually; future license fees; sales tax on products sold; and any penalty collections from certain restaurants, bars, distilleries, and breweries that expand their premises.

P.L.2022, c.85 extended the expiration date of the COVID-19 Expansion of Premise Permits, issued under Special Ruling No. 2020-10 by the Division of Alcoholic Beverage Control, until November 30, 2024. The extension is set to expire, and this bill establishes a permanent Expansion of Premise Permit licensure and application process. On October 19, 2020, Special Ruling 2020-21 issued by the division allowed for over 2,300 permits to be extended to March 31, 2021. The OLS has not received an updated number of the permits issued since March of 2021.

State Expenditure Impacts: Currently, once a premises expansion permit is approved by a municipal government, the Director of the Division of Alcoholic Beverage Control issues the holder of an alcoholic beverage manufacturer license or retail consumption license a premises expansion permit upon application by the license holder. Those license holders who held a temporary expansion permit issued pursuant to the director's special ruling (2020-10) at the time were entitled to convert the permit to an Expansion of Premise Permit. A permit issued to a restaurant without an alcoholic beverage retail license is permitted to renew annually.

Further, a permit for the use of the State rights-of-way is to be issued upon application and approval of the New Jersey Department of Transportation.

Depending on the resource allocation policies of the respective departments, the added workload may or may not augment State administrative expenditures. The OLS further indicates that this process has been in place for over four years, and it cannot predict how many additional establishments may consider this permit to expand their premises if the permit is made permanent.

Municipal Expenditure Impacts: The bill may increase costs to municipalities associated with the administration, regulation, and enforcement related to the premises expansion permits. Pursuant to the bill, a zoning officer is required to approve a compliant application within 15 business days of being submitted. An appeal to any approval, denial, revocation, or suspension may be filed through the municipal clerk with the governing body of the municipality. The governing body is required to conduct a hearing and render a decision within 30 days of the filing of the appeal.

The OLS notes the bill may impact municipal law enforcement resources, as there may be an increased need for enforcement of alcoholic beverage statutes and ordinances. Local governments may also incur nominal additional costs to ensure that health protocols are being adhered to at restaurants, bars, distilleries, and breweries with expanded premises.

State and Municipal Revenue Impacts: This bill may increase State revenue from the expansion of the sale of products in expanded businesses that obtain the permit. Additionally, the OLS anticipates that expansion of a premises would increase the number of patrons, thereby increasing the overall sale of alcohol beverage products and increasing the amount of State sales tax collected by the Division of Taxation in the Department of the Treasury.

The OLS does not have information on how many municipalities, if any, are charging application fees for the expansion permits or for the municipal zoning application. The OLS concludes that the bill could result in a potential indeterminate increase in municipal revenues if municipalities pass an ordinance allowing application fees to be charged, if they have not done so already.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Lead Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 4866

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED SEPTEMBER 23, 2024

Sponsored by:

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Assemblywoman Drulis

SYNOPSIS

Permits restaurants and certain alcoholic beverage retailers and manufacturers to conduct business within designated outdoor space or on public sidewalk.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/17/2024)

1 AN ACT concerning outdoor sale of food and alcoholic beverages
2 and supplementing Title 40 of the Revised Statutes.

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 “Alcoholic beverage manufacturer license” or “license” means a
9 plenary winery license, farm winery license, out-of-State winery
10 license, limited brewery license, restricted brewery license, cidery
11 and meadery license, and craft distillery license issued pursuant to
12 R.S.33:1-10.

13 “Alcoholic beverage retail consumption license” or “license”
14 means a plenary retail consumption license, plenary retail consumption
15 license used in connection with a hotel or motel, seasonal retail
16 consumption license, or club license issued pursuant to R.S.33:1-12, or
17 a concessionaire permit issued pursuant to Title 33 of the Revised
18 Statutes that authorizes the sale of all alcoholic beverages for
19 consumption on the licensed premises.

20 “Food” means food that is cooked, prepared, sold, served, and
21 consumed on the business premises.

22 “Outdoor space” means a patio or deck, whether covered or
23 uncovered, a yard, a walkway, or a parking lot, or a portion of any
24 such space, that is located on or adjacent to the business premises,
25 which space is owned, leased, or otherwise in the lawful control of
26 the owner or operator of the business premises.

27 “Premises expansion permit” means a permit issued to a
28 manufacturer license or retail consumption license that entitles the
29 license holder to use outdoor spaces that they own or lease and that
30 are located either on, or adjacent to, their business premises, as an
31 extension of their business premises for the purpose of conducting
32 sales of food and beverages.

33 “Public sidewalk” means a sidewalk on the locally or county
34 owned public right-of-way which is adjacent to the business
35 premises, or a portion thereof.

36

37 2. a. The Director of the Division of Alcoholic Beverage
38 Control shall issue to the holder of an alcoholic beverage
39 manufacturer license or retail consumption license a premises
40 expansion permit upon application by the license holder. The permit
41 shall entitle the license holder to sell alcoholic beverages in outdoor
42 spaces that they own or lease and that are located either on, or
43 adjacent to, their business premises, as an extension of their
44 business premises.

45 b. An applicant for a premises expansion permit shall file an

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.

1 application with the director with the following information:

2 (1) the name, address, and license number of the applicant;

3 (2) a description of the property that is the subject of the
4 application as well as a sketch or photographs of the property;

5 (3) written approval or documentation from the property owner
6 authorizing the temporary use of the expanded property by a
7 licensee if the licensed property is not owned by the license holder;
8 and

9 (4) proposed security plan for sale and service of alcoholic
10 beverages on the expanded premises including prevention of pass-
11 offs, underage drinking, and over-consumption;

12 c. The director shall transfer the application for a premises
13 expansion permit to the municipal clerk and police chief of the
14 municipal governing body in which the manufacturer license or
15 retail consumption license situated. For licensed premises located
16 on property owned by or under the control of any political
17 subdivision of this State, the application shall be reviewed and
18 approved by a designated administrative official and the chief law
19 enforcement officer responsible for the licensed property.

20 The director shall not approve or deny an application until it
21 receives an endorsement or approval by the appropriate governing
22 body officials.

23 d. A premises expansion permit issued pursuant to this section
24 renews on the same date that the retail consumption license or
25 manufacturer license is renewed by the license holder.

26 e. A license holder who held a temporary expansion permit
27 issued pursuant to the director's special ruling prior to the effective
28 date of this act shall be entitled to convert the permit to a premises
29 expansion permit established pursuant to this section. A license
30 holder who held the temporary expansion permit prior the effective
31 date of this act and converts the permit pursuant to this subsection
32 shall not be required to submit to the director or municipal
33 governing authority an additional application pursuant to P.L. ,
34 c. (C.) (pending before the Legislature as this bill).

35
36 3. a. Notwithstanding the provisions of any law to the
37 contrary, the owner or operator of a restaurant that does not sell
38 alcoholic beverages and the holder of an alcoholic beverage
39 manufacturer license or retail consumption license may use outdoor
40 spaces that they own or lease and that are located either on, or
41 adjacent to, their business premises, as an extension of their
42 business premises.

43 b. The owner or operator of a restaurant that does not sell
44 alcoholic beverages and the holder of an alcoholic beverage
45 manufacturer license or retail consumption license seeking to utilize
46 outdoor spaces as an extension of their businesses shall file an
47 application with the municipal zoning officer. The application to
48 the municipal zoning officer shall include:

1 (1) a plan, sketch, picture, or drawing that depicts the design,
2 dimensional boundaries, and placement of tents, canopies,
3 umbrellas, tables, chairs, and other fixtures of the outdoor spaces;
4 and

5 (2) a plan for the control of litter, the removal and storage of
6 garbage, and the cleaning of fixtures and grounds. If a business
7 premises' parking lot is used for the service and sale of either food
8 or beverages, or both, the owner or operator of a restaurant that
9 does not sell alcoholic beverages and the holder of an alcoholic
10 beverage manufacturer license or retail consumption license shall not
11 encumber more than 75 percent of the lot's total parking spaces for
12 service and sale, unless the parking lot contains less than eight
13 parking spaces, and shall maintain at least one handicapped parking
14 space in the parking lot.

15 c. A municipality may require that an applicant provide one or
16 more of the following:

17 (1) written consent of the owner of the premises, if other than
18 the applicant;

19 (2) an insurance certificate naming the municipality as an
20 additional insured, with general liability on an occurrence with a
21 limit of liability of at least \$1,000,000, with respect to losses arising
22 solely from the operation of the outdoor dining facility; or

23 (3) an indemnification agreement with the municipality with
24 respect to losses arising solely from the operation of the outdoor
25 dining facility.

26 d. (1) The zoning officer shall issue an approval to the
27 applicant within 15 business days of the application being submitted
28 and deemed complete provided that the applicant meets and abides
29 by all qualifications and requirements of P.L. , c. (C.)
30 (pending before the Legislature as this bill), with the exception that
31 the zoning officer may deny an application based on current
32 violations of any other health, safety, fire, permitted use, or zoning
33 regulation, or upon any applicable law permitting the denial of a
34 zoning permit. An application under this section shall not be
35 considered a variance under the "Municipal Land Use Law,"
36 P.L.1975, c.291 (C.40:55D-1 et seq.).

37 (2) A municipality may deny, revoke, or temporarily suspend
38 the permit of any applicant or permittee that violates, or is not in
39 compliance with, any provision of P.L. , c. (C.) (pending
40 before the Legislature as this bill) or any provision of a law,
41 ordinance, or regulation related to health, safety, fire, permitted use,
42 zoning, or the consumption or control of alcoholic beverages not
43 otherwise under the jurisdiction of the Division of Alcoholic
44 Beverage Control, and may also deny, revoke, or temporarily
45 suspend the permit of any applicant or permittee based on any
46 action taken against the applicant or permittee by the Division of
47 Alcoholic Beverage Control related to the division's enforcement of

1 any law or regulation related to the consumption or control of
2 alcoholic beverages under its jurisdiction.

3 (3) An appeal to any approval, denial, revocation, or suspension
4 may be filed through the municipal clerk with the governing body
5 of the municipality. The governing body, or its designee, shall
6 conduct a hearing and render a decision within 30 days of the filing
7 of the appeal. The governing body may designate a municipal
8 official or an attorney licensed in the State of New Jersey to serve
9 as a hearing officer in place of the governing body for the purpose
10 of conducting said hearing and rendering said decision. Nothing in
11 P.L. , c. (C.) (pending before the Legislature as this bill)
12 shall be construed to restrict the right of any party to obtain a
13 review by any court of competent jurisdiction, according to law.

14 e. A permit issued pursuant to this section to a restaurant
15 without an alcoholic beverage retail license shall renew annually.

16 f. A municipality that approves an application for the holder of
17 an alcoholic beverage manufacturer license or retail consumption
18 license shall submit its endorsement to the Director of the Division of
19 Alcoholic Beverage Control pursuant to section 2 of P.L. ,
20 c. (C.) (pending before the Legislature as this bill).

21 g. The owner or operator of a restaurant that does not sell
22 alcoholic beverages and the holder of an alcoholic beverage
23 manufacturer license or retail consumption license who held a
24 temporary permit issued by the municipality prior to the effective
25 date of this act shall be entitled to convert the permit to a premises
26 expansion permit established pursuant to this section. An owner or
27 operator of a restaurant that does not sell alcoholic beverages and
28 the holder of an alcoholic beverage manufacturer license or retail
29 consumption license who held a temporary permit issued by the
30 municipality prior prior the effective date of this act and converts
31 the permit pursuant to this subsection shall not be required to
32 municipal governing authority an additional application pursuant to
33 P.L. , c. (C.) (pending before the Legislature as this bill).

34
35 4. The installation and continuous use of tents, canopies,
36 umbrellas, tables, chairs, and other fixtures on private property or
37 public property or right of way designated by a municipality
38 pursuant to P.L. , c. (C.) (pending before the Legislature as
39 this bill) shall be a permitted use provided that the tent, canopy,
40 umbrella, table, chairs, or other fixture conforms to all applicable
41 provisions of the State Uniform Construction Code and Uniform
42 Fire Code, which have been adopted by the Commissioner of
43 Community Affairs pursuant to P.L.1975, c.217 (C.52:27D-119, et
44 seq.) and P.L.1983, c.383 (C.52:27D-192 et seq.), respectively.

45
46 5. a. Notwithstanding any provision of P.L. , c. (C.)
47 (pending before the Legislature as this bill) to the contrary, all other
48 municipal ordinances pertaining to sanitation, property

1 maintenance, noise, business days and hours of operation, and days
2 and hours of service of alcoholic beverages shall apply, unless
3 specifically suspended or modified by the municipality or
4 specifically prohibited by the provisions of this section.

5 b. With respect to a restaurant that does not sell alcoholic
6 beverages and the holder of premises expansion permit issued
7 pursuant section 2 of P.L. , c. (C.) (pending before the
8 Legislature as this bill) operating in outdoor spaces pursuant to
9 section 2 of P.L. , c. (C.) (pending before the Legislature
10 as this bill), a municipality shall not prohibit or limit the days and
11 hours of the outdoor service of food and beverages, including
12 alcoholic beverages, except that municipalities may prohibit or limit
13 operations for the hours after 10:00 p.m. and between 12:00 a.m.
14 and 11:00 a.m. on Sundays through Wednesdays, and between
15 12:00 a.m. and 11:00 a.m. on Thursdays through Saturdays, with
16 the exception that a municipal ordinance prohibiting or limiting the
17 days and hours of indoor service of food and beverages, including
18 alcoholic beverages, may be applied to the outdoor service of food
19 and beverages, including alcoholic beverages, as a condition of the
20 zoning approval pursuant to section 3 of P.L. , c. (C.)
21 (pending before the Legislature as this bill). This provision shall
22 not be construed as overruling or prohibiting the authority of a city
23 of the first class to impose more restrictive time restrictions or
24 prohibit or limit the days and hours of the outdoor service of food
25 and beverages.

26 c. A municipality may either prohibit or limit the days and
27 hours of any live performances, including musical performances,
28 and the playing or projection of any content from a recording,
29 streaming service or television, cable, or Internet broadcasting
30 service in outdoor spaces or on public sidewalks as a condition of
31 the zoning approval pursuant to sections 3 and 4 of P.L. ,
32 c. (C.) (pending before the Legislature as this bill).

33

34 6. A public sidewalk or an outdoor space shall be considered a
35 portion of the premises that is open to the public for the purposes of
36 section 5 of P.L.1999, c.90 (C.2C:33-27).

37

38 7. Nothing in P.L. , c. (C.) (pending before the
39 Legislature as this bill) shall be interpreted or construed as
40 permitting or mandating the opening, expansion, or resumption of
41 unlimited operations of a restaurant that does not sell alcoholic
42 beverages and the holder of a premises expansion permit issued
43 pursuant section 2 of P.L. , c. (C.) (pending before the
44 Legislature as this bill) that is closed, whether permanently or
45 temporarily, or operating subject to limitations on its operations,
46 service, or hours, as a result of disciplinary or legal sanctions
47 imposed by, or entering into a settlement agreement with, a court of
48 the State of New Jersey, a municipal court, the New Jersey

1 Department of Law and Public Safety, the New Jersey Division of
2 Alcoholic Beverage Control, or a municipal governing body acting
3 as a local alcoholic beverage control board, as applicable.
4

5 8. Nothing in P.L. , c. (C.) (pending before the
6 Legislature as this bill) permits the use of State-owned rights-of-
7 way for the purposes of outdoor dining. A permit for the use of the
8 State rights-of-way shall be issued upon application and approval of
9 the New Jersey Department of Transportation. For the purposes of
10 locally-owned roads that intersect the State highway system,
11 setbacks from the State right-of-way line will be 50 feet from April
12 1 to October 31, and 100 feet from November 1 to March 31.
13

14 9. This act shall take effect immediately.
15
16

17 STATEMENT
18

19 This bill permits restaurants and certain alcoholic beverage
20 retailers and manufacturers to extend their premises to certain
21 outdoor locations. Under the bill, owners and operators of these
22 businesses may be permitted to use outdoor spaces, as defined in the
23 bill, that they own or lease and that are located on, or adjacent to, their
24 business premises, as an extension of their business premises for the
25 purpose of conducting sales of food and beverages, including alcoholic
26 beverages if licensed. The bill provides that alcoholic beverage
27 retailers and manufacturers are to include, the holder of a plenary retail
28 consumption license, plenary retail consumption license used in
29 connection with a hotel or motel, seasonal retail consumption license,
30 or club license or concessionaire permit, plenary winery license, farm
31 winery license, out-of-State winery license, limited brewery license,
32 restricted brewery license, cidery and meadery license, and craft
33 distillery license.

34 The bill also allows the owners and operators of those
35 establishments to use public sidewalks, as defined in the bill, as an
36 extension of their business premises for that purpose.

37 Under the bill, the Director of the Division of Alcoholic Beverage
38 Control (ABC) is to issue to the holder of an alcoholic beverage
39 manufacturer license or retail consumption license a premises
40 expansion permit upon application by the license holder. The permit is
41 to entitle the license holder to sell alcoholic beverages in outdoor
42 spaces that they own or lease and that are located either on, or
43 adjacent to, their business premises, as an extension of their
44 business premises. The ABC director would then transfer the
45 application for premises expansion permit to the municipal clerk and
46 police chief of the municipal governing body in which the
47 manufacturer license or retail consumption license situated. The
48 director would not approve or deny an application until receipt of

1 an endorsement or approval by the appropriate governing body
2 officials. The holder of a temporary expansion permit issued by the
3 ABC director prior to the bill's enactment would be entitled to
4 convert that temporary permit into a permanent permit issued under
5 the bill.

6 In addition, the bill requires owners and operators of those
7 establishments seeking to utilize outdoor spaces or public sidewalks as
8 extensions of their business premises to file an application with the
9 municipal zoning officer, including information concerning the use of
10 the outdoor spaces or public sidewalks, as appropriate, pursuant to the
11 requirements provided in the bill.

12 The installation and continuous use of tents, canopies, umbrellas,
13 tables, chairs, and other fixtures on private property or public
14 property or right of way designated by a municipality are to be a
15 permitted use provided that the tent, canopy, umbrella, table, chairs,
16 or other fixture conforms to all applicable provisions of the State
17 Uniform Construction Code and Uniform Fire Code.

18 The bill provides that all other municipal ordinances pertaining
19 to sanitation, property maintenance, noise, business days and hours
20 of operation, and days and hours of service of alcoholic beverages
21 are to apply, unless specifically suspended or modified by the
22 municipality or specifically prohibited by the provisions of the bill.

23 With respect to a restaurant, bar, distillery, or brewery operating
24 in outdoor spaces, a municipality is not to prohibit or limit the days
25 and hours of the outdoor service of food and beverages, including
26 alcoholic beverages, except that municipalities may prohibit or limit
27 operations for the hours after 10:00 p.m. and between 12:00 a.m.
28 and 11:00 a.m. on Sundays through Wednesdays, and between
29 12:00 a.m. and 11:00 a.m. on Thursdays through Saturdays, with
30 the exception that a municipal ordinance prohibiting or limiting the
31 days and hours of indoor service of food and beverages, including
32 alcoholic beverages, may be applied to the outdoor service of food
33 and beverages, including alcoholic beverages, as a condition of the
34 zoning approval pursuant to the bill. This provision shall not be
35 construed as overruling or prohibiting the authority of a city of the
36 first class to impose more restrictive time restrictions or prohibit or
37 limit the days and hours of the outdoor service of food and
38 beverages.

39 The bill provides that a municipality may either prohibit or limit
40 the days and hours of any live performances, including musical
41 performances, and the playing or projection of any content from a
42 recording, streaming service or television, cable, or Internet
43 broadcasting service in outdoor spaces or on public sidewalks as a
44 condition of the zoning approval.

45 Nothing in the bill is to be interpreted or construed as permitting
46 or mandating the opening, expansion, or resumption of unlimited
47 operations of a restaurant, bar, or brewery that is closed, whether
48 permanently or temporarily, or operating subject to limitations on

1 its operations, service, or hours, as a result of disciplinary or legal
2 sanctions imposed by, or entering into a settlement agreement with,
3 a court of the State of New Jersey, a municipal court, the New
4 Jersey Department of Law and Public Safety, the New Jersey
5 Division of Alcoholic Beverage Control, or a municipal governing
6 body acting as a local alcoholic beverage control board, as
7 applicable. Further, nothing in the bill permits the use of State-
8 owned rights-of-way for the purposes of outdoor dining. A permit
9 for the use of the State rights-of-way is to be issued upon
10 application and approval of the New Jersey Department of
11 Transportation. For the purposes of locally-owned roads that
12 intersect the State highway system, setbacks from the State right-of-
13 way line will be 50 feet from April 1 to October 31, and 100 feet
14 from November 1 to March 31.

15 Under the bill, a permit issued to a restaurant, bar, distillery, or
16 brewery with an alcoholic beverage retail license issued by the
17 Division of Alcoholic Beverage Control in the Department of Law
18 and Public Safety is to renew with that license, provided the legal
19 entity holding the license has not changed. A permit issued to a
20 restaurant without an alcoholic beverage retail license is to renew
21 annually.

[First Reprint]

ASSEMBLY, No. 4866

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED SEPTEMBER 23, 2024

Sponsored by:

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Assemblywoman Drulis

SYNOPSIS

Permits restaurants and certain alcoholic beverage retailers and manufacturers to conduct business within designated outdoor space or on public sidewalk.

CURRENT VERSION OF TEXT

As reported by the Assembly Oversight, Reform and Federal Relations Committee on October 17, 2024, with amendments.



(Sponsorship Updated As Of: 10/17/2024)

1 AN ACT concerning outdoor sale of food and alcoholic beverages
2 and supplementing Title 40 of the Revised Statutes.

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 “Alcoholic beverage manufacturer license” or “license” means a
9 plenary winery license, farm winery license, out-of-State winery
10 license, limited brewery license, restricted brewery license, cidery and
11 meadery license, and craft distillery license issued pursuant to
12 R.S.33:1-10.

13 “Alcoholic beverage retail consumption license” or “license”
14 means a plenary retail consumption license, plenary retail consumption
15 license used in connection with a hotel or motel, seasonal retail
16 consumption license, or club license issued pursuant to R.S.33:1-12, or
17 a concessionaire permit issued pursuant to Title 33 of the Revised
18 Statutes that authorizes the sale of all alcoholic beverages for
19 consumption on the licensed premises.

20 “Food” means food that is cooked, prepared, sold, served, and
21 consumed on the business premises.

22 “Outdoor space” means a patio or deck, whether covered or
23 uncovered, a yard, a walkway, or a parking lot, or a portion of any
24 such space, that is located on ¹**[**or adjacent to¹**]** the business premises,
25 ¹contiguous to the business premises, or in a non-contiguous location
26 in accordance with paragraph (2) of subsection a. of section 2 of
27 P.L. , c. (C.) (pending before the Legislature as this bill)¹
28 which space is owned, leased, or otherwise in the lawful control of the
29 owner or operator of the business premises.

30 “Premises expansion permit” means a permit issued to a
31 manufacturer ¹**[**license¹**]** license holder¹ or retail consumption
32 ¹**[**license¹**]** license holder¹ that entitles the license holder to use
33 outdoor spaces ¹as an extension of their business premises¹ that they
34 own or lease and that are located either on ¹**[**, or adjacent to,¹**]** their
35 business premises, ¹**[**as an extension of their business premises¹**]**
36 contiguous to the business premises, or in a non-contiguous location in
37 accordance with paragraph (2) of subsection a. of section 2 of P.L. ,
38 c. (C.) (pending before the Legislature as this bill)¹ for the
39 purpose of conducting sales of food and beverages.

40 “Public sidewalk” means a sidewalk on the locally or county
41 owned public right-of-way which is adjacent to the business premises,
42 or a portion thereof.

43

44 2. a. ¹(1)¹ The Director of the Division of Alcoholic Beverage
45 Control shall issue to the holder of an alcoholic beverage manufacturer

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:

¹Assembly AOF committee amendments adopted October 17, 2024.

1 license or retail consumption license a premises expansion permit
2 upon application by the license holder. The permit shall entitle the
3 license holder to sell alcoholic beverages in outdoor spaces ¹as an
4 extension of their business premises¹ that they own or lease and that
5 are located either on ¹[, or adjacent to,]¹ their business premises, ¹[as
6 an extension of their business premises] contiguous to the business
7 premises, or in a non-contiguous location in accordance with
8 paragraph (2) of this subsection¹.

9 ¹(2) The permit shall entitle the license holder to expand the
10 licensed premises to non-contiguous property, provided the property is
11 in reasonable proximity to the licensed premises and the license holder
12 has established safeguards to ensure that alcoholic beverages will be
13 sold and served in accordance with Title 33 of the Revised Statutes. A
14 license holder who obtains a premises expansion permit for a
15 contiguous and non-contiguous property shall demonstrate that the
16 license holder has a possessory interest and control over the property
17 and shall be entitled to exercise the same privileges afforded on the
18 existing licensed premises.¹

19 b. An applicant for a premises expansion permit shall file an
20 application with the director with the following information:

21 (1) the name, address, and license number of the applicant;

22 (2) a description of the property that is the subject of the
23 application as well as a sketch or photographs of the property;

24 (3) written approval or documentation from the property owner
25 authorizing the temporary use of the expanded property by a licensee
26 if the licensed property is not owned by the license holder; and

27 (4) proposed security plan for sale and service of alcoholic
28 beverages on the expanded premises including prevention of pass-offs,
29 underage drinking, and over-consumption ¹[;]¹.

30 c. The director shall transfer the application for a premises
31 expansion permit to the municipal clerk and police chief of the
32 municipal governing body in which the manufacturer license or retail
33 consumption license ¹is¹ situated. For licensed premises located on
34 property owned by or under the control of any political subdivision of
35 this State, the application shall be reviewed and approved by a
36 designated administrative official and the chief law enforcement
37 officer responsible for the licensed property.

38 The director shall not approve or deny an application until it
39 receives an endorsement or approval by the appropriate governing
40 body officials.

41 d. A premises expansion permit issued pursuant to this section
42 renews on the same date that the retail consumption license or
43 manufacturer license is renewed by the license holder.

44 e. A license holder who held a temporary expansion permit issued
45 pursuant to the director's special ruling prior to the effective date of
46 this act shall be entitled to convert the permit to a premises expansion
47 permit established pursuant to this section. A license holder who held

1 the temporary expansion permit prior ¹to¹ the effective date of this act
2 and converts the permit pursuant to this subsection shall not be
3 required to submit to the director or municipal governing authority an
4 additional application pursuant to P.L. , c. (C.) (pending
5 before the Legislature as this bill).

6
7 3. a. Notwithstanding the provisions of any law to the contrary,
8 the owner or operator of a restaurant that does not sell alcoholic
9 beverages and the holder of an alcoholic beverage manufacturer
10 license or retail consumption license may use outdoor spaces ¹as an
11 extension of their business premises¹ that they own or lease and that
12 are located either on ¹[, or adjacent to,]¹ their business premises ¹[, as
13 an extension of their business premises] contiguous to the business
14 premises, or in a non-contiguous location¹.

15 b. The owner or operator of a restaurant that does not sell
16 alcoholic beverages and the holder of an alcoholic beverage
17 manufacturer license or retail consumption license seeking to utilize
18 outdoor spaces as an extension of their businesses shall file an
19 application with the municipal zoning officer. The application to the
20 municipal zoning officer shall include:

21 (1) a plan, sketch, picture, or drawing that depicts the design,
22 dimensional boundaries, and placement of tents, canopies, umbrellas,
23 tables, chairs, and other fixtures of the outdoor spaces; and

24 (2) a plan for the control of litter, the removal and storage of
25 garbage, and the cleaning of fixtures and grounds. If a business
26 premises' parking lot is used for the service and sale of either food or
27 beverages, or both, the owner or operator of a restaurant that does not
28 sell alcoholic beverages and the holder of an alcoholic beverage
29 manufacturer license or retail consumption license shall not encumber
30 more than 75 percent of the lot's total parking spaces for service and
31 sale, unless the parking lot contains less than eight parking spaces, and
32 shall maintain at least one handicapped parking space in the parking
33 lot.

34 c. A municipality may require that an applicant provide one or
35 more of the following:

36 (1) written consent of the owner of the premises, if other than the
37 applicant;

38 (2) an insurance certificate naming the municipality as an
39 additional insured, with general liability on an occurrence with a limit
40 of liability of at least \$1,000,000, with respect to losses arising solely
41 from the operation of the outdoor dining facility; or

42 (3) an indemnification agreement with the municipality with
43 respect to losses arising solely from the operation of the outdoor
44 dining facility.

45 d. (1) The zoning officer shall issue an approval to the applicant
46 within 15 business days of the application being submitted and deemed
47 complete provided that the applicant meets and abides by all

1 qualifications and requirements of P.L. , c. (C.) (pending
2 before the Legislature as this bill), with the exception that the zoning
3 officer may deny an application based on current violations of any
4 other health, safety, fire, permitted use, or zoning regulation, or upon
5 any applicable law permitting the denial of a zoning permit. An
6 application under this section shall not be considered a variance under
7 the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.).

8 (2) A municipality may deny, revoke, or temporarily suspend the
9 permit of any applicant or permittee that violates, or is not in
10 compliance with, any provision of P.L. , c. (C.) (pending
11 before the Legislature as this bill) or any provision of a law, ordinance,
12 or regulation related to health, safety, fire, permitted use, zoning, or
13 the consumption or control of alcoholic beverages not otherwise under
14 the jurisdiction of the Division of Alcoholic Beverage Control, and
15 may also deny, revoke, or temporarily suspend the permit of any
16 applicant or permittee based on any action taken against the applicant
17 or permittee by the Division of Alcoholic Beverage Control related to
18 the division’s enforcement of any law or regulation related to the
19 consumption or control of alcoholic beverages under its jurisdiction.

20 (3) An appeal to any approval, denial, revocation, or suspension
21 may be filed through the municipal clerk with the governing body of
22 the municipality. The governing body, or its designee, shall conduct a
23 hearing and render a decision within 30 days of the filing of the
24 appeal. The governing body may designate a municipal official or an
25 attorney licensed in the State of New Jersey to serve as a hearing
26 officer in place of the governing body for the purpose of conducting
27 said hearing and rendering said decision. Nothing in P.L. ,
28 c. (C.) (pending before the Legislature as this bill) shall be
29 construed to restrict the right of any party to obtain a review by any
30 court of competent jurisdiction, according to law.

31 e. A permit issued pursuant to this section to a restaurant without
32 an alcoholic beverage retail license shall renew annually.

33 f. A municipality that approves an application for the holder of an
34 alcoholic beverage manufacturer license or retail consumption license
35 shall submit its endorsement to the Director of the Division of
36 Alcoholic Beverage Control pursuant to section 2 of P.L. , c.
37 (C.) (pending before the Legislature as this bill).

38 g. The owner or operator of a restaurant that does not sell
39 alcoholic beverages and the holder of an alcoholic beverage
40 manufacturer license or retail consumption license who held a
41 temporary permit issued by the municipality prior to the effective date
42 of this act shall be entitled to convert the permit to a premises
43 expansion permit established pursuant to this section. An owner or
44 operator of a restaurant that does not sell alcoholic beverages and the
45 holder of an alcoholic beverage manufacturer license or retail
46 consumption license who held a temporary permit issued by the
47 municipality prior ¹**[prior]** to¹ the effective date of this act and
48 converts the permit pursuant to this subsection shall not be required to

1 municipal governing authority an additional application pursuant to
2 P.L. , c. (C.) (pending before the Legislature as this bill).

3
4 4. The installation and continuous use of tents, canopies,
5 umbrellas, tables, chairs, and other fixtures on private property or
6 public property or right of way designated by a municipality
7 pursuant to P.L. , c. (C.) (pending before the Legislature as
8 this bill) shall be a permitted use provided that the tent, canopy,
9 umbrella, table, chairs, or other fixture conforms to all applicable
10 provisions of the State Uniform Construction Code and Uniform
11 Fire Code, which have been adopted by the Commissioner of
12 Community Affairs pursuant to P.L.1975, c.217 (C.52:27D-119, et
13 seq.) and P.L.1983, c.383 (C.52:27D-192 et seq.), respectively.

14
15 5. a. Notwithstanding any provision of P.L. , c. (C.)
16 (pending before the Legislature as this bill) to the contrary, all other
17 municipal ordinances pertaining to sanitation, property
18 maintenance, noise, business days and hours of operation, and days
19 and hours of service of alcoholic beverages shall apply, unless
20 specifically suspended or modified by the municipality or
21 specifically prohibited by the provisions of this section.

22 b. With respect to a restaurant that does not sell alcoholic
23 beverages and the holder of premises expansion permit issued
24 pursuant section 2 of P.L. , c. (C.) (pending before the
25 Legislature as this bill) operating in outdoor spaces pursuant to
26 section 2 of P.L. , c. (C.) (pending before the Legislature
27 as this bill), a municipality shall not prohibit or limit the days and
28 hours of the outdoor service of food and beverages, including
29 alcoholic beverages, except that municipalities may prohibit or limit
30 operations for the hours after 10:00 p.m. and between 12:00 a.m.
31 and 11:00 a.m. on Sundays through Wednesdays, and between
32 12:00 a.m. and 11:00 a.m. on Thursdays through Saturdays, with
33 the exception that a municipal ordinance prohibiting or limiting the
34 days and hours of indoor service of food and beverages, including
35 alcoholic beverages, may be applied to the outdoor service of food
36 and beverages, including alcoholic beverages, as a condition of the
37 zoning approval pursuant to section 3 of P.L. , c. (C.)
38 (pending before the Legislature as this bill). This provision shall
39 not be construed as overruling or prohibiting the authority of a city
40 of the first class to impose more restrictive time restrictions or
41 prohibit or limit the days and hours of the outdoor service of food
42 and beverages.

43 c. A municipality may either prohibit or limit the days and
44 hours of any live performances, including musical performances,
45 and the playing or projection of any content from a recording,
46 streaming service or television, cable, or Internet broadcasting
47 service in outdoor spaces or on public sidewalks as a condition of

1 the zoning approval pursuant to sections 3 and 4 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill).

3

4 6. A public sidewalk or an outdoor space ¹, including
5 pedestrian walkways and pedestrian malls,¹ shall be considered a
6 portion of the premises that is open to the public for the purposes of
7 section 5 of P.L.1999, c.90 (C.2C:33-27).

8

9 7. Nothing in P.L. , c. (C.) (pending before the
10 Legislature as this bill) shall be interpreted or construed as
11 permitting or mandating the opening, expansion, or resumption of
12 unlimited operations of a restaurant that does not sell alcoholic
13 beverages and the holder of a premises expansion permit issued
14 pursuant section 2 of P.L. , c. (C.) (pending before the
15 Legislature as this bill) that is closed, whether permanently or
16 temporarily, or operating subject to limitations on its operations,
17 service, or hours, as a result of disciplinary or legal sanctions
18 imposed by, or entering into a settlement agreement with, a court of
19 the State of New Jersey, a municipal court, the New Jersey
20 Department of Law and Public Safety, the New Jersey Division of
21 Alcoholic Beverage Control, or a municipal governing body acting
22 as a local alcoholic beverage control board, as applicable.

23

24 8. Nothing in P.L. , c. (C.) (pending before the
25 Legislature as this bill) permits the use of State-owned rights-of-
26 way for the purposes of outdoor dining. A permit for the use of the
27 State rights-of-way shall be issued upon application and approval of
28 the New Jersey Department of Transportation. For the purposes of
29 locally-owned roads that intersect the State highway system,
30 setbacks from the State right-of-way line will be 50 feet from April
31 1 to October 31, and 100 feet from November 1 to March 31.

32

33 9. This act shall take effect immediately.

[Second Reprint]

ASSEMBLY, No. 4866

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED SEPTEMBER 23, 2024

Sponsored by:

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman MITCHELLE DRULIS

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman BARBARA MCCANN STAMATO

District 31 (Hudson)

Co-Sponsored by:

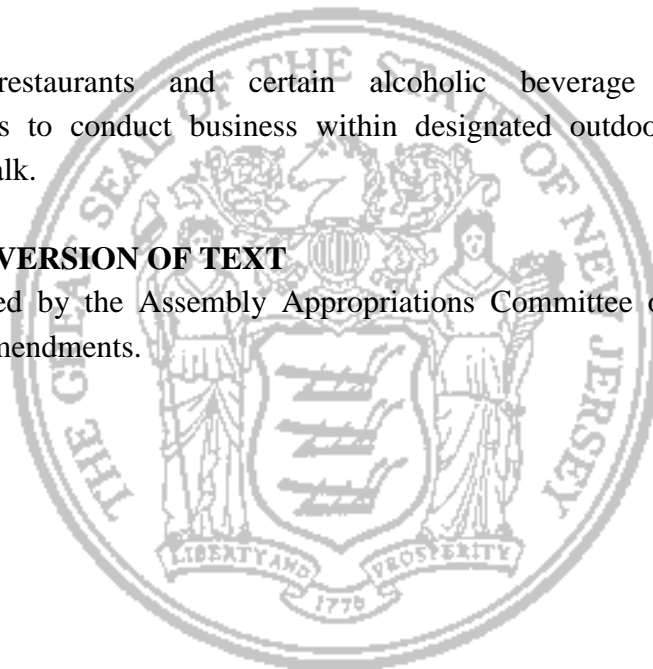
**Assemblyman Sauickie, Assemblywoman Swift, Assemblyman Allen,
Assemblywoman Reynolds-Jackson, Assemblyman Scharfenberger,
Assemblywomen Flynn, Speight, Assemblyman Sampson, Assemblywomen
Peterpaul, Donlon, Fantasia, Bagolie, Assemblymen Inganamort and
DePhillips**

SYNOPSIS

Permits restaurants and certain alcoholic beverage retailers and manufacturers to conduct business within designated outdoor space or on public sidewalk.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on October 24, 2024, with amendments.



(Sponsorship Updated As Of: 10/28/2024)

1 AN ACT concerning outdoor sale of food and alcoholic beverages
2 and supplementing Title 40 of the Revised Statutes.

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 “Alcoholic beverage manufacturer license” or “license” means a
9 plenary winery license, farm winery license, ²**[out-of-State winery**
10 **license,]**² limited brewery license, restricted brewery license, cidery
11 and meadery license, and craft distillery license issued pursuant to
12 R.S.33:1-10.

13 “Alcoholic beverage retail consumption license” or “license”
14 means a plenary retail consumption license, plenary retail
15 consumption license used in connection with a hotel or motel,
16 seasonal retail consumption license, or club license issued pursuant
17 to R.S.33:1-12, or a concessionaire permit issued pursuant to Title
18 33 of the Revised Statutes that authorizes the sale of all alcoholic
19 beverages for consumption on the licensed premises.

20 “Food” means food that is cooked, prepared, sold, served, and
21 consumed on the business premises.

22 “Outdoor space” means a patio or deck, whether covered or
23 uncovered, a yard, a walkway, or a parking lot, or a portion of any
24 such space, that is located on ¹**[or adjacent to]**¹ the business
25 premises, ¹contiguous to the business premises, or in a non-
26 contiguous location in accordance with paragraph (2) of subsection
27 a. of section 2 of P.L. _____, c. _____ (C. _____) (pending before the
28 Legislature as this bill)¹ which space is owned, leased, or otherwise
29 in the lawful control of the owner or operator of the business
30 premises.

31 “Premises expansion permit” means a permit issued to a
32 manufacturer ¹**[license]** license holder¹ or retail consumption
33 ¹**[license]** license holder¹ that entitles the license holder to use
34 outdoor spaces ¹as an extension of their business premises¹ that
35 they own or lease and that are located either on ¹**[, or adjacent to,]**¹
36 their business premises, ¹**[as an extension of their business**
37 **premises]** contiguous to the business premises, or in a non-
38 contiguous location in accordance with paragraph (2) of subsection
39 a. of section 2 of P.L. _____, c. _____ (C. _____) (pending before the
40 Legislature as this bill)¹ for the purpose of conducting sales of food
41 and beverages ²as allowed by law².

42 “Public sidewalk” means a sidewalk on the locally or county
43 owned public right-of-way which is adjacent to the business
44 premises, or a portion thereof.

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:

¹Assembly AOF committee amendments adopted October 17, 2024.

²Assembly AAP committee amendments adopted October 24, 2024.

1 2. a. ¹(1) ²**【The】** Following the issuance of a special ruling or
2 adoption of regulations pursuant to subsection f. of this section, the²
3 Director of the Division of Alcoholic Beverage Control shall issue
4 to the holder of an alcoholic beverage manufacturer license or retail
5 consumption license a premises expansion permit upon application
6 by the license holder. ²Application for the permit shall be made on
7 an annual basis and the administrative fee for the permit shall be
8 fixed by the director.² The permit shall entitle the license holder to
9 sell alcoholic beverages in outdoor spaces ¹as an extension of their
10 business premises¹that they own or lease and that are located either
11 on ¹【, or adjacent to,】¹ their business premises, ¹【as an extension of
12 their business premises】 contiguous to the business premises, or in
13 a non-contiguous location in accordance with paragraph (2) of this
14 subsection¹. ²The director may impose any conditions upon the
15 issuance or renewal of this permit deemed necessary and proper to
16 achieve the objectives of this section.²

17 ¹(2) The permit shall entitle the license holder to expand the
18 licensed premises to non-contiguous property, provided the property
19 is in reasonable proximity to the licensed premises and the license
20 holder has established safeguards to ensure that alcoholic beverages
21 will be sold and served in accordance with Title 33 of the Revised
22 Statutes. A license holder who obtains a premises expansion permit
23 for a contiguous and non-contiguous property shall demonstrate that
24 the license holder has a possessory interest and control over the
25 property and shall be entitled to exercise the same privileges
26 afforded on the existing licensed premises.¹

27 b. An applicant for a premises expansion permit shall file an
28 application with the director with the following information:

29 (1) the name, address, and license number of the applicant;

30 (2) a description of the property that is the subject of the
31 application as well as a sketch or photographs of the property;

32 (3) written approval or documentation from the property owner
33 authorizing the temporary use of the expanded property by a
34 licensee if the licensed property is not owned by the license holder;
35 and

36 (4) proposed security plan for sale and service of alcoholic
37 beverages on the expanded premises including prevention of pass-
38 offs, underage drinking, and over-consumption ¹【;】¹

39 c. The director shall ²**【transfer】** transmit² the application for a
40 premises expansion permit to the municipal clerk and police chief
41 of the municipal governing body in which the manufacturer license
42 or retail consumption license ¹is¹ situated. For licensed premises
43 located on property owned by or under the control of any political
44 subdivision of this State, the application shall be reviewed and
45 approved by a designated administrative official and the chief law
46 enforcement officer responsible for the licensed property.

1 The director shall not approve or deny an application until it
2 receives an endorsement or approval by the appropriate governing
3 body officials.

4 d. ²~~【A】~~ Following the initial issuance, the renewal date of a²
5 premises expansion permit issued pursuant to this section ²~~【renews~~
6 on】 shall be² the same ²as the renewal² date ²~~【that】 of~~² the retail
7 consumption license or manufacturer license ²~~【is renewed by the~~
8 license holder】².

9 e. ²~~(1)~~² A license holder who held a temporary expansion
10 permit issued pursuant to the director's special ruling prior to the
11 effective date of this act shall be entitled ², upon notice to the
12 director and payment of a fee as shall be fixed by the director,² to
13 convert the permit to a premises expansion permit established
14 pursuant to this section. A license holder who held the temporary
15 expansion permit prior ¹to¹ the effective date of this act and
16 converts the permit pursuant to this subsection shall not be required
17 to submit to the director or municipal governing authority an
18 additional application pursuant to P.L. , c. (C.) (pending
19 before the Legislature as this bill).

20 ²~~(2)~~ A temporary expansion permit issued pursuant to the
21 director's special ruling prior to the effective date of this act shall
22 remain in effect pending the director's issuance of a special ruling
23 or adoption of regulations pursuant to subsection f. of this section
24 until either November 30, 2025 or until the license holder is issued
25 a premises expansion permit pursuant to this section.

26 f. No later than May 30, 2025, the director shall issue a special
27 ruling or adopt regulations necessary to effectuate the purposes of
28 this section. Regulations shall be effective immediately upon filing
29 with the Office of Administrative Law for a period not to exceed 18
30 months, and may, thereafter, be amended, adopted or readopted in
31 accordance with the provisions of the "Administrative Procedure
32 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).²
33

34 3. a. Notwithstanding the provisions of any law to the
35 contrary, the owner or operator of a restaurant that does not sell
36 alcoholic beverages and the holder of an alcoholic beverage
37 manufacturer license or retail consumption license may use ², for
38 purposes other than selling alcoholic beverages in such spaces as
39 authorized pursuant to section 2 of P.L. , c. (C.)(pending
40 before the Legislature as this bill),² outdoor spaces ¹as an extension
41 of their business premises¹ that they own or lease and that are
42 located either on ¹~~【, or adjacent to,】~~¹ their business premises ¹~~【, as~~
43 an extension of their business premises】 contiguous to the business
44 premises, or in a non-contiguous location¹.

1 b. The owner or operator of a restaurant that does not sell
2 alcoholic beverages and the holder of an alcoholic beverage
3 manufacturer license or retail consumption license seeking to utilize
4 2, for purposes other than selling alcoholic beverages in such spaces
5 as authorized pursuant to section 2 of P.L. , c. (C.)(pending
6 before the Legislature as this bill),² outdoor spaces as an extension
7 of their businesses shall file an application with the municipal
8 zoning officer. The application to the municipal zoning officer
9 shall include:

10 (1) a plan, sketch, picture, or drawing that depicts the design,
11 dimensional boundaries, and placement of tents, canopies,
12 umbrellas, tables, chairs, and other fixtures of the outdoor spaces;
13 and

14 (2) a plan for the control of litter, the removal and storage of
15 garbage, and the cleaning of fixtures and grounds. If a business
16 premises' parking lot is used for the service and sale of either food
17 or beverages, or both, the owner or operator of a restaurant that
18 does not sell alcoholic beverages and the holder of an alcoholic
19 beverage manufacturer license or retail consumption license shall
20 not encumber more than 75 percent of the lot's total parking spaces
21 for service and sale, unless the parking lot contains less than eight
22 parking spaces, and shall maintain at least one handicapped parking
23 space in the parking lot.

24 c. A municipality may require that an applicant provide one or
25 more of the following:

26 (1) written consent of the owner of the premises, if other than
27 the applicant;

28 (2) an insurance certificate naming the municipality as an
29 additional insured, with general liability on an occurrence with a
30 limit of liability of at least \$1,000,000, with respect to losses arising
31 solely from the operation of the outdoor dining facility; or

32 (3) an indemnification agreement with the municipality with
33 respect to losses arising solely from the operation of the outdoor
34 dining facility.

35 d. (1) The zoning officer shall issue an approval to the
36 applicant within 15 business days of the application being submitted
37 and deemed complete provided that the applicant meets and abides
38 by all qualifications and requirements of P.L. , c. (C.)
39 (pending before the Legislature as this bill), with the exception that
40 the zoning officer may deny an application based on current
41 violations of any other health, safety, fire, permitted use, or zoning
42 regulation, or upon any applicable law permitting the denial of a
43 zoning permit. An application under this section shall not be
44 considered a variance under the "Municipal Land Use Law,"
45 P.L.1975, c.291 (C.40:55D-1 et seq.).

46 (2) A municipality may deny, revoke, or temporarily suspend
47 the permit of any applicant or permittee that violates, or is not in
48 compliance with, any provision of P.L. , c. (C.) (pending

1 before the Legislature as this bill) or any provision of a law,
2 ordinance, or regulation related to health, safety, fire, permitted use,
3 zoning, or the consumption or control of alcoholic beverages not
4 otherwise under the jurisdiction of the Division of Alcoholic
5 Beverage Control, and may also deny, revoke, or temporarily
6 suspend the permit of any applicant or permittee based on any
7 action taken against the applicant or permittee by the Division of
8 Alcoholic Beverage Control related to the division's enforcement of
9 any law or regulation related to the consumption or control of
10 alcoholic beverages under its jurisdiction.

11 (3) An appeal to any approval, denial, revocation, or suspension
12 may be filed through the municipal clerk with the governing body
13 of the municipality. The governing body, or its designee, shall
14 conduct a hearing and render a decision within 30 days of the filing
15 of the appeal. The governing body may designate a municipal
16 official or an attorney licensed in the State of New Jersey to serve
17 as a hearing officer in place of the governing body for the purpose
18 of conducting said hearing and rendering said decision. Nothing in
19 P.L. , c. (C.) (pending before the Legislature as this bill)
20 shall be construed to restrict the right of any party to obtain a
21 review by any court of competent jurisdiction, according to law.

22 e. A permit issued pursuant to this section to a restaurant
23 without an alcoholic beverage retail license shall ²**[renew annually]**
24 be subject to annual renewal².

25 f. A municipality that approves an application for the holder of
26 an alcoholic beverage manufacturer license or retail consumption
27 license shall submit its endorsement to the Director of the Division
28 of Alcoholic Beverage Control pursuant to section 2 of P.L. , c.
29 (C.) (pending before the Legislature as this bill).

30 g. The owner or operator of a restaurant that does not sell
31 alcoholic beverages and the holder of an alcoholic beverage
32 manufacturer license or retail consumption license who held a
33 temporary permit issued by the municipality prior to the effective
34 date of this act shall be entitled to convert the permit to a premises
35 expansion permit established pursuant to this section ²to be used for
36 purposes other than selling alcoholic beverages in such spaces as
37 authorized pursuant to section 2 of P.L. , c. (C.)(pending
38 before the Legislature as this bill)². An owner or operator of a
39 restaurant that does not sell alcoholic beverages and the holder of
40 an alcoholic beverage manufacturer license or retail consumption
41 license who held a temporary permit issued by the municipality
42 prior ¹**[prior]** to¹ the effective date of this act and converts the
43 permit pursuant to this subsection shall not be required to ²submit
44 to the² municipal governing authority an additional application
45 pursuant to P.L. , c. (C.) (pending before the Legislature
46 as this bill).

1 4. The installation and continuous use of tents, canopies,
2 umbrellas, tables, chairs, and other fixtures on private property or
3 public property or right of way designated by a municipality
4 pursuant to P.L. , c. (C.) (pending before the Legislature as
5 this bill) shall be a permitted use provided that the tent, canopy,
6 umbrella, table, chairs, or other fixture conforms to all applicable
7 provisions of the State Uniform Construction Code and Uniform
8 Fire Code, which have been adopted by the Commissioner of
9 Community Affairs pursuant to P.L.1975, c.217 (C.52:27D-119, et
10 seq.) and P.L.1983, c.383 (C.52:27D-192 et seq.), respectively.

11
12 5. a. Notwithstanding any provision of P.L. , c. (C.)
13 (pending before the Legislature as this bill) to the contrary, all other
14 municipal ordinances pertaining to sanitation, property
15 maintenance, noise, business days and hours of operation, and days
16 and hours of service of alcoholic beverages shall apply, unless
17 specifically suspended or modified by the municipality or
18 specifically prohibited by the provisions of this section.

19 b. With respect to a restaurant that does not sell alcoholic
20 beverages and the holder of premises expansion permit issued
21 pursuant section 2 of P.L. , c. (C.) (pending before the
22 Legislature as this bill) operating in outdoor spaces pursuant to
23 section 2 of P.L. , c. (C.) (pending before the Legislature
24 as this bill), a municipality shall not prohibit or limit the days and
25 hours of the outdoor service of food and beverages, including
26 alcoholic beverages, except that municipalities may prohibit or limit
27 operations for the hours after 10:00 p.m. and between 12:00 a.m.
28 and 11:00 a.m. on Sundays through Wednesdays, and between
29 12:00 a.m. and 11:00 a.m. on Thursdays through Saturdays, with
30 the exception that a municipal ordinance prohibiting or limiting the
31 days and hours of indoor service of food and beverages, including
32 alcoholic beverages, may be applied to the outdoor service of food
33 and beverages, including alcoholic beverages, as a condition of the
34 zoning approval pursuant to section 3 of P.L. , c. (C.)
35 (pending before the Legislature as this bill). This provision shall
36 not be construed as overruling or prohibiting the authority of a city
37 of the first class to impose more restrictive time restrictions or
38 prohibit or limit the days and hours of the outdoor service of food
39 and beverages.

40 c. A municipality may either prohibit or limit the days and
41 hours of any live performances, including musical performances,
42 and the playing or projection of any content from a recording,
43 streaming service or television, cable, or Internet broadcasting
44 service in outdoor spaces or on public sidewalks as a condition of
45 the zoning approval pursuant to sections 3 and 4 of P.L. ,
46 c. (C.) (pending before the Legislature as this bill).

1 6. A public sidewalk or an outdoor space ¹, including pedestrian
2 walkways and pedestrian malls, ^{1 2}which is subject to a premises
3 expansion permit issued pursuant to section 2 or section 3 of P.L. ,
4 c. (C.)(pending before the Legislature as this bill)² shall be
5 considered a portion of the premises that is open to the public for the
6 purposes of section 5 of P.L.1999, c.90 (C.2C:33-27).

7
8 7. Nothing in P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall be interpreted or construed as permitting
10 or mandating the opening, expansion, or resumption of unlimited
11 operations of a restaurant that does not sell alcoholic beverages and the
12 holder of a ²COVID-19 Expansion Permit issued by the Director of
13 the Division of Alcoholic Beverage Control pursuant to the
14 provisions of Special Ruling No. 2020-10 or a² premises expansion
15 permit issued pursuant section 2 of P.L. , c. (C.) (pending before
16 the Legislature as this bill) that is closed, whether permanently or
17 temporarily, or operating subject to limitations on its operations,
18 service, or hours, as a result of disciplinary or legal sanctions imposed
19 by, or entering into a settlement agreement with, a court of the State of
20 New Jersey, a municipal court, the New Jersey Department of Law
21 and Public Safety, the New Jersey Division of Alcoholic Beverage
22 Control, or a municipal governing body acting as a local alcoholic
23 beverage control board, as applicable.

24
25 ²8. Section 4 of P.L.2021, c.15 is amended to read as follows:

26 4. a. Notwithstanding the provisions of any other law to the
27 contrary, the expiration date of any COVID-19 Expansion Permit
28 issued by the Director of the Division of Alcoholic Beverage Control
29 pursuant to the provisions of Special Ruling No. 2020-10 shall be
30 November 30, **[2024]** 2025, except that any such permit shall expire
31 prior to that date upon the conversion of the permit to, or issuance to
32 the permit holder of, a premises expansion permit pursuant to section 2
33 of P.L. , c. (C.)(pending before the Legislature as this bill).

34 b. The governing body of a municipality may file with the
35 Division of Alcoholic Beverage Control an objection to the continued
36 operation under subsection a. of this section by any licensee or
37 permittee the governing body finds to have:

38 (1) failed to follow, maintain, and enforce protocols promulgated
39 by the Commissioner of Health or by Executive Order of the Governor
40 in response to the COVID-19 public health emergency concerning
41 social distancing and the use of personal protective equipment; or

42 (2) violated any other health, safety, fire, permitted use, or zoning
43 regulations or ordinances not otherwise directly superseded by this
44 section or Special Ruling No. 2020-10.

45 Any decision rendered, or action taken, by the Director of the
46 Division of Alcoholic Beverage Control as a result of an objection

1 filed by the governing body of the municipality pursuant to this
2 subsection shall be a final agency action subject to judicial review in
3 the Appellate Division of the Superior Court of New Jersey in
4 accordance with the Rules of Court.

5 c. Nothing in this act shall preclude or limit the authority
6 provided to the Director of the Division of Alcoholic Beverage Control
7 pursuant to the provisions of Title 33 of the Revised Statutes or the
8 exercise of such authority thereby.²
9 (cf: P.L.2022, c.85, s.2)

10

11 ²9. Section 10 of P.L.2021, c.15 is amended to read as follows:

12 10. This act shall take effect on the 30th day following enactment
13 and sections 1 through 8 shall expire at 11:59 p.m. on November 30,
14 **[2024] 2025.**²
15 (cf: P.L.2022, c.85, s.3)

16

17 ²[8.] 10.² Nothing in P.L. , c. (C.) (pending before the
18 Legislature as this bill) permits the use of State-owned rights-of-
19 way for the purposes of outdoor dining. A permit for the use of the
20 State rights-of-way shall be issued upon application and approval of
21 the New Jersey Department of Transportation. For the purposes of
22 locally-owned roads that intersect the State highway system,
23 setbacks from the State right-of-way line will be 50 feet from April
24 1 to October 31, and 100 feet from November 1 to March 31.

25

26 ²[9.] 11.² This act shall take effect immediately ², except that
27 subsections a. through e. of section 2 shall remain inoperative until
28 May 30, 2025 but the director may take such anticipatory action as
29 may be necessary to effectuate those provisions of this act².

ASSEMBLY OVERSIGHT, REFORM AND FEDERAL
RELATIONS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 4866

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 17, 2024

The Assembly Oversight, Reform and Federal Relations Committee reports favorably and with committee amendments Assembly Bill No. 4866.

As amended by the committee, Assembly Bill No. 4866 permits restaurants and certain alcoholic beverage retailers and manufacturers to extend their premises to certain outdoor locations. Under the bill, owners and operators of these businesses may be permitted to use outdoor spaces, as defined in the bill, that they own or lease and that are located on their business premises, contiguous to the business premises, or in a non-contiguous location as an extension of their business premises for the purpose of conducting sales of food and beverages, including alcoholic beverages if licensed. The bill provides that alcoholic beverage retailers and manufacturers are to include the holder of a plenary retail consumption license, plenary retail consumption license used in connection with a hotel or motel, seasonal retail consumption license, club license, concessionaire permit, plenary winery license, farm winery license, out-of-State winery license, limited brewery license, restricted brewery license, cidery and meadery license, and craft distillery license.

The bill also allows the owners and operators of those establishments to use public sidewalks, including pedestrian walkways and pedestrian malls, as an extension of their business premises for that purpose.

Under the bill, the Director of the Division of Alcoholic Beverage Control (ABC) is to issue to the holder of an alcoholic beverage manufacturer license or retail consumption license a premises expansion permit upon application by the license holder. The permit is to entitle the license holder to sell alcoholic beverages in outdoor spaces that they own or lease own or lease and that are located on their business premises, contiguous to the business premises, or in a non-contiguous location as an extension of their business premises. The permit would entitle the license holder to expand the licensed premises to non-contiguous property, provided the property is in reasonable proximity to the licensed premises and the license holder has established safeguards to ensure that alcoholic beverages will be sold

and served in accordance with current law. A license holder who obtains a premises expansion permit for contiguous and non-contiguous property would be required to demonstrate that the license holder has a possessory interest and control over the property and is entitled to exercise the same privileges afforded on the existing licensed premises.

The ABC director would transfer the application for premises expansion permit to the municipal clerk and police chief of the municipal governing body in which the manufacturer license or retail consumption license situated. The director would not approve or deny an application until receipt of an endorsement or approval by the appropriate governing body officials. The holder of a temporary expansion permit issued by the ABC director prior to the bill's enactment would be entitled to convert that temporary permit into a permanent permit issued under the bill.

In addition, the bill requires owners and operators of those establishments seeking to utilize outdoor spaces or public sidewalks as extensions of their business premises to file an application with the municipal zoning officer, including information concerning the use of the outdoor spaces or public sidewalks, as appropriate, pursuant to the requirements provided in the bill.

The installation and continuous use of tents, canopies, umbrellas, tables, chairs, and other fixtures on private property or public property or right of way designated by a municipality are to be a permitted use provided that the tent, canopy, umbrella, table, chairs, or other fixture conforms to all applicable provisions of the State Uniform Construction Code and Uniform Fire Code.

The bill provides that all other municipal ordinances pertaining to sanitation, property maintenance, noise, business days and hours of operation, and days and hours of service of alcoholic beverages are to apply, unless specifically suspended or modified by the municipality or specifically prohibited by the provisions of the bill.

With respect to a restaurant, bar, distillery, or brewery operating in outdoor spaces, a municipality is not to prohibit or limit the days and hours of the outdoor service of food and beverages, including alcoholic beverages, except that municipalities may prohibit or limit operations for the hours after 10:00 p.m. and between 12:00 a.m. and 11:00 a.m. on Sundays through Wednesdays, and between 12:00 a.m. and 11:00 a.m. on Thursdays through Saturdays, with the exception that a municipal ordinance prohibiting or limiting the days and hours of indoor service of food and beverages, including alcoholic beverages, may be applied to the outdoor service of food and beverages, including alcoholic beverages, as a condition of the zoning approval pursuant to the bill. This provision shall not be construed as overruling or prohibiting the authority of a city of the first class to impose more restrictive time restrictions or prohibit or limit the days and hours of the outdoor service of food and beverages.

The bill provides that a municipality may either prohibit or limit the days and hours of any live performances, including musical performances, and the playing or projection of any content from a recording, streaming service or television, cable, or Internet broadcasting service in outdoor spaces or on public sidewalks as a condition of the zoning approval.

Nothing in the bill is to be interpreted or construed as permitting or mandating the opening, expansion, or resumption of unlimited operations of a restaurant, bar, or brewery that is closed, whether permanently or temporarily, or operating subject to limitations on its operations, service, or hours, as a result of disciplinary or legal sanctions imposed by, or entering into a settlement agreement with, a court of the State of New Jersey, a municipal court, the New Jersey Department of Law and Public Safety, the New Jersey Division of Alcoholic Beverage Control, or a municipal governing body acting as a local alcoholic beverage control board, as applicable. Further, nothing in the bill permits the use of State-owned rights-of-way for the purposes of outdoor dining. A permit for the use of the State rights-of-way is to be issued upon application and approval of the New Jersey Department of Transportation. For the purposes of locally-owned roads that intersect the State highway system, setbacks from the State right-of-way line will be 50 feet from April 1 to October 31, and 100 feet from November 1 to March 31.

Under the bill, a permit issued to a restaurant, bar, distillery, or brewery with an alcoholic beverage retail license issued by the Division of Alcoholic Beverage Control in the Department of Law and Public Safety is to renew with that license, provided the legal entity holding the license has not changed. A permit issued to a restaurant without an alcoholic beverage retail license is to renew annually.

COMMITTEE AMENDMENTS

The committee amended the bill to:

(1) allow business owners to use outdoor spaces located on their business premises, contiguous to the business premises, or in a non-contiguous location as an extension of their business premises;

(2) clarify that an extended premises is required to be in reasonable proximity to an alcoholic beverage licensed premises and the license holder has established safeguards to ensure that alcoholic beverages will be sold and served in accordance with current law;

(3) clarify that an alcoholic beverage license holder who obtains a premises expansion permit for contiguous and non-contiguous property is to demonstrate that the license holder has a possessory interest and control over the property and is entitled to exercise the same privileges afforded on the existing licensed premises; and

(4) clarify that a business may extend its premises to pedestrian walkways and pedestrian malls.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4866

STATE OF NEW JERSEY

DATED: OCTOBER 24, 2024

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4866 (1R).

As amended by the committee, Assembly Bill No. 4866 permits restaurants and certain alcoholic beverage retailers and manufacturers to extend their premises to certain outdoor locations. Under the bill, owners and operators of these businesses may be permitted to use outdoor spaces, as defined in the bill, that they own or lease and that are located on their business premises, contiguous to the business premises, or in a non-contiguous location as an extension of their business premises for the purpose of conducting sales of food and beverages, including alcoholic beverages if licensed. The bill provides that alcoholic beverage retailers and manufacturers are to include the holder of a plenary retail consumption license, plenary retail consumption license used in connection with a hotel or motel, seasonal retail consumption license, club license, concessionaire permit, plenary winery license, farm winery license, limited brewery license, restricted brewery license, cidery and meadery license, and craft distillery license. The bill also allows the owners and operators of those establishments to use public sidewalks, including pedestrian walkways and pedestrian malls, as an extension of their business premises for that purpose.

The bill requires the Director of the Division of Alcoholic Beverage Control (ABC) to issue a special ruling or adopt regulations to effectuate the bill's purposes no later than May 30, 2025. Following issuance of a special ruling or adoption of regulations, the bill provides that the director is to issue to the holder of an alcoholic beverage manufacturer license or retail consumption license a premises expansion permit upon application. The bill further provides that temporary expansion permits issued by the director prior to the effective date of the bill will remain in effect until either November 30, 2025 or a license holder is issued a premises expansion permit pursuant to the provisions of this bill, whichever first occurs.

The permit is to entitle the license holder to sell alcoholic beverages in outdoor spaces that they own or lease and that are located on their business premises, contiguous to the business premises, or in a noncontiguous location as an extension of their business premises. The

permit would entitle the license holder to expand the licensed premises to non-contiguous property, provided the property is in reasonable proximity to the licensed premises and the license holder has established safeguards to ensure that alcoholic beverages will be sold and served in accordance with current law. A license holder who obtains a premises expansion permit for contiguous and noncontiguous property would be required to demonstrate that the license holder has a possessory interest and control over the property and is entitled to exercise the same privileges afforded on the existing licensed premises.

The ABC director would transmit the application for a premises expansion permit to the municipal clerk and police chief of the municipal governing body in which the manufacturer license or retail consumption license situated. The director would not approve or deny an application until receipt of an endorsement or approval by the appropriate governing body officials. The holder of a temporary expansion permit issued by the ABC director prior to the bill's enactment would be entitled to convert that temporary permit into a permanent permit issued under the bill, upon notice and payment of a fee to the ABC director.

In addition, the bill requires owners and operators of those establishments seeking to utilize outdoor spaces or public sidewalks as extensions of their business premises to file an application with the municipal zoning officer, including information concerning the use of the outdoor spaces or public sidewalks, as appropriate, pursuant to the requirements provided in the bill. The application filed with the municipal zoning officer is to include the purposes for use other than the sale of alcoholic beverages.

The installation and continuous use of tents, canopies, umbrellas, tables, chairs, and other fixtures on private property or public property or right of way designated by a municipality are to be a permitted use provided that the tent, canopy, umbrella, table, chairs, or other fixture conforms to all applicable provisions of the State Uniform Construction Code and Uniform Fire Code. The bill provides that all other municipal ordinances pertaining to sanitation, property maintenance, noise, business days and hours of operation, and days and hours of service of alcoholic beverages are to apply, unless specifically suspended or modified by the municipality or specifically prohibited by the provisions of the bill.

With respect to alcoholic beverage retailers and manufacturers, a municipality is not to prohibit or limit the days and hours of the outdoor service of food and beverages, including alcoholic beverages, except that municipalities may prohibit or limit operations for the hours after 10:00 p.m. and between 12:00 a.m. and 11:00 a.m. on Sundays through Wednesdays, and between 12:00 a.m. and 11:00 a.m. on Thursdays through Saturdays, with the exception that a municipal ordinance prohibiting or limiting the days and hours of indoor service

of food and beverages, including alcoholic beverages, may be applied to the outdoor service of food and beverages, including alcoholic beverages, as a condition of the zoning approval pursuant to the bill. The bill provides that a municipality may either prohibit or limit the days and hours of any live performances, including musical performances, and the playing or projection of any content from a recording, streaming service or television, cable, or Internet broadcasting service in outdoor spaces or on public sidewalks as a condition of the zoning approval.

Nothing in the bill is to be interpreted or construed as permitting or mandating the opening, expansion, or resumption of unlimited operations of alcoholic beverage retailer and manufacturers that is closed, whether permanently or temporarily, or operating subject to limitations on its operations, service, or hours, as a result of disciplinary or legal sanctions imposed by, or entering into a settlement agreement with, a court of the State of New Jersey, a municipal court, the New Jersey Department of Law and Public Safety, the New Jersey Division of Alcoholic Beverage Control, or a municipal governing body acting as a local alcoholic beverage control board, as applicable. Further, nothing in the bill permits the use of State-owned rights-of-way for the purposes of outdoor dining.

Under the bill, a permit issued to alcoholic beverage retailers and manufacturers issued by ABC is subject to annual renewal along with that license, provided the legal entity holding the license has not changed. A permit issued to a restaurant without an alcoholic beverage retail license is subject to annual renewal.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

1) remove “out-of-State winery license” from the definition of “alcoholic beverage manufacturer license”;

2) provide that the Director of the Division of Alcoholic Beverage Control will not be required to issue premises expansion permits until after the issuance of a special ruling or adoption of regulations to effectuate the purposes of the bill, which are required to be issued or adopted no later than May 30, 2025;

3) provide that temporary expansion permits issued prior to the effective date of the bill will remain in effect until either November 30, 2025 or until a license holder is issued a premises expansion permit pursuant to the provisions of the bill, whichever first occurs. The amendments also clarify that a temporary premises expansion permit will expire upon conversion to a permit issued under the provisions of the bill;

4) provide that temporary premises expansion permits may be converted to permanent permits, upon notice and payment of a fee to the director of ABC. As introduced, the bill did not require a permit holder to provide notice or pay a fee;

5) provide that premises expansion permits are subject to annual renewal. As introduced, the bill provided that the permits automatically would renew annually;

6) clarify that the application filed with the municipal zoning officer is to include the purposes for use other than the sale of alcoholic beverages; and

7) make clarifying and technical changes.

FISCAL IMPACT:

Fiscal information is not currently available at this time.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4866

STATE OF NEW JERSEY 221st LEGISLATURE

DATED: OCTOBER 23, 2024

SUMMARY

- Synopsis:** Permits restaurants and certain alcoholic beverage retailers and manufacturers to conduct business within designated outdoor space or on public sidewalk.
- Type of Impact:** Annual State and municipal revenue and expenditure increases.
- Agencies Affected:** Department of Law and Public Safety; Department of Transportation; and municipalities.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State and Local Expenditure Increases	Indeterminate
Annual State and Local Revenue Increases	Indeterminate

- The Office of Legislative Services (OLS) finds that the bill may result in indeterminate increases in annual State and municipal revenues and expenditures. The OLS estimates the bill may increase expenses for the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, the Department of Transportation, and municipalities. Further, the bill may result in an indeterminate impact on potential State and municipal revenues collected from the total number of premises expansion permits issued annually; future license fees; sales tax on products sold; and any penalty collections from certain restaurants, bars, distilleries, and breweries that expand their premises.
- P.L.2022, c.85 extended the expiration date of the COVID-19 Expansion of Premise Permits, issued pursuant to Special Ruling No. 2020-10 by the Division of Alcoholic Beverage Control, until November 30, 2024. This bill establishes a permanent Expansion of Premise Permit licensure and application process.
- The bill requires a zoning officer to approve a compliant application, along with other documentation as may be required by the municipality, within 15 business days of being submitted. The OLS does not know the current fees, if any, charged by municipalities to process these applications.

BILL DESCRIPTION

This bill permits restaurants and certain alcoholic beverage retailers and manufacturers to extend their premises to certain outdoor locations. Under the bill, owners and operators of these businesses may be permitted to use outdoor spaces that they own or lease and that are located on the business premises, contiguous to the business premises, or in a non-contiguous location as an extension of their business premises for the purpose of conducting sales of food and beverages, including alcoholic beverages if licensed.

The bill requires the Director of the Division of Alcoholic Beverage Control to issue to the holder of an alcoholic beverage manufacturer license or retail consumption license a premises expansion permit upon application by the license holder. The permit is to entitle the license holder to sell alcoholic beverages in certain outdoor spaces, including walkways and pedestrian malls, as an extension of their business premises. The director would then transfer the application for premises expansion permit to the municipal clerk and police chief of the municipal governing body in which the manufacturer license or retail consumption license is situated. The director would not approve or deny an application until receipt of an endorsement or approval by the appropriate governing body officials. The holder of a temporary premises expansion permit issued by the director prior to the bill's enactment would be entitled to convert that temporary permit into a permanent permit issued under the bill.

In addition, the bill requires owners and operators of those establishments seeking to utilize outdoor spaces or public sidewalks, including pedestrian walkways and pedestrian malls, as extensions of their business premises to file an application with the municipal zoning officer, including information concerning the use of the outdoor spaces or public sidewalks, as appropriate, pursuant to the requirements provided in the bill. The bill requires a zoning officer to approve a compliant application within 15 business days of being submitted. An appeal to any approval, denial, revocation, or suspension may be filed through the municipal clerk with the governing body of the municipality. The governing body is required to conduct a hearing and render a decision within 30 days of the filing of the appeal.

A permit for the use of the State rights-of-way is to be issued upon application and approval of the New Jersey Department of Transportation. For the purposes of locally-owned roads that intersect the State highway system, setbacks from the State right-of-way line will be 50 feet from April 1 to October 31, and 100 feet from November 1 to March 31.

The bill provides that all other municipal ordinances pertaining to sanitation, property maintenance, noise, business days and hours of operation, and days and hours of service of alcoholic beverages are to apply, unless specifically suspended or modified by the municipality or specifically prohibited by the provisions of the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will result in indeterminate increases in annual State and municipal revenues and expenditures. The OLS estimates the bill may increase expenses for the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, the Department of

Transportation, and municipalities. Further, the bill may result in an indeterminate impact on potential State and municipal revenues collected from the total number of licenses issued annually; future license fees; sales tax on products sold; and any penalty collections from certain restaurants, bars, distilleries, and breweries that expand their premises.

P.L.2022, c.85 extended the expiration date of the COVID-19 Expansion of Premise Permits, issued under Special Ruling No. 2020-10 by the Division of Alcoholic Beverage Control, until November 30, 2024. The extension is set to expire, and this bill establishes a permanent Expansion of Premise Permit licensure and application process. On October 19, 2020, Special Ruling 2020-21 issued by the division allowed for over 2,300 permits to be extended to March 31, 2021. The OLS has not received an updated number of the permits issued since March of 2021.

State Expenditure Impacts: Currently, once a premises expansion permit is approved by a municipal government, the Director of the Division of Alcoholic Beverage Control issues the holder of an alcoholic beverage manufacturer license or retail consumption license a premises expansion permit upon application by the license holder. Those license holders who held a temporary expansion permit issued pursuant to the director's special ruling (2020-10) at the time were entitled to convert the permit to an Expansion of Premise Permit. A permit issued to a restaurant without an alcoholic beverage retail license is permitted to renew annually.

Further, a permit for the use of the State rights-of-way is to be issued upon application and approval of the New Jersey Department of Transportation.

Depending on the resource allocation policies of the respective departments, the added workload may or may not augment State administrative expenditures. The OLS further indicates that this process has been in place for over four years, and it cannot predict how many additional establishments may consider this permit to expand their premises if the permit is made permanent.

Municipal Expenditure Impacts: The bill may increase costs to municipalities associated with the administration, regulation, and enforcement related to the premises expansion permits. Pursuant to the bill, a zoning officer is required to approve a compliant application within 15 business days of being submitted. An appeal to any approval, denial, revocation, or suspension may be filed through the municipal clerk with the governing body of the municipality. The governing body is required to conduct a hearing and render a decision within 30 days of the filing of the appeal.

The OLS notes the bill may impact municipal law enforcement resources, as there may be an increased need for enforcement of alcoholic beverage statutes and ordinances. Local governments may also incur nominal additional costs to ensure that health protocols are being adhered to at restaurants, bars, distilleries, and breweries with expanded premises.

State and Municipal Revenue Impacts: This bill may increase State revenue from the expansion of the sale of products in expanded businesses that obtain the permit. Additionally, the OLS anticipates that expansion of a premises would increase the number of patrons, thereby increasing the overall sale of alcohol beverage products and increasing the amount of State sales tax collected by the Division of Taxation in the Department of the Treasury.

The OLS does not have information on how many municipalities, if any, are charging application fees for the expansion permits or for the municipal zoning application. The OLS concludes that the bill could result in a potential indeterminate increase in municipal revenues if municipalities pass an ordinance allowing application fees to be charged, if they have not done so already.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Lead Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 4866

STATE OF NEW JERSEY 221st LEGISLATURE

DATED: OCTOBER 31, 2024

SUMMARY

- Synopsis:** Permits restaurants and certain alcoholic beverage retailers and manufacturers to conduct business within designated outdoor space or on public sidewalk.
- Type of Impact:** Annual State and municipal revenue and expenditure increases.
- Agencies Affected:** Department of Law and Public Safety; Department of Transportation; and municipalities.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State and Local Expenditure Increases	Indeterminate
Annual State and Local Revenue Increases	Indeterminate

- The Office of Legislative Services (OLS) finds that the bill may result in indeterminate increases in annual State and municipal revenues and expenditures. The OLS estimates the bill may increase expenses for the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, the Department of Transportation, and municipalities. Further, the bill may result in an indeterminate impact on: potential State and municipal revenues collected from the total number of premises expansion permits that may be annually renewed; future license fees; sales tax on products sold; and any penalty collections from certain restaurants, bars, distilleries, and breweries that expand their premises.
- P.L.2022, c.85 extended the expiration date of the COVID-19 Expansion of Premise Permits, issued pursuant to Special Ruling No. 2020-10 by the Division of Alcoholic Beverage Control, until November 30, 2024. This bill temporarily extends this ruling to November 30, 2025, and establishes an Expansion of Premise Permit that may be annually renewed.
- The bill requires a zoning officer to approve a compliant application, along with other documentation as may be required by the municipality, within 15 business days of being submitted. The OLS does not know the current fees, if any, charged by municipalities to process these applications.

BILL DESCRIPTION

This bill permits restaurants and certain alcoholic beverage retailers and manufacturers to extend their premises to certain outdoor locations. Under the bill, owners and operators of these businesses may be permitted to use outdoor spaces that they own or lease and that are located on the business premises, contiguous to the business premises, or in a non-contiguous location as an extension of their business premises for the purpose of conducting sales of food and beverages, including alcoholic beverages if licensed.

The bill requires the Director of the Division of Alcoholic Beverage Control to issue to the holder of an alcoholic beverage manufacturer license or retail consumption license a premises expansion permit upon application by the license holder. The permit is to entitle the license holder to sell alcoholic beverages in certain outdoor spaces, including walkways and pedestrian malls, as an extension of their business premises. The director would then transfer the application for premises expansion permit to the municipal clerk and police chief of the municipal governing body in which the manufacturer license or retail consumption license is situated. The director would not approve or deny an application until receipt of an endorsement or approval by the appropriate governing body officials. The holder of a temporary premises expansion permit issued by the director prior to the bill's enactment would be entitled under the bill to convert that temporary permit into a permit that may be renewed annually.

In addition, the bill requires owners and operators of those establishments seeking to utilize outdoor spaces or public sidewalks, including pedestrian walkways and pedestrian malls, as extensions of their business premises to file an application with the municipal zoning officer, including information concerning the use of the outdoor spaces or public sidewalks, as appropriate, pursuant to the requirements provided in the bill. The bill requires a zoning officer to approve a compliant application within 15 business days of being submitted. An appeal to any approval, denial, revocation, or suspension may be filed through the municipal clerk with the governing body of the municipality. The governing body is required to conduct a hearing and render a decision within 30 days of the filing of the appeal.

A permit for the use of the State rights-of-way is to be issued upon application and approval of the New Jersey Department of Transportation. For the purposes of locally-owned roads that intersect the State highway system, setbacks from the State right-of-way line will be 50 feet from April 1 to October 31, and 100 feet from November 1 to March 31.

The bill provides that all other municipal ordinances pertaining to sanitation, property maintenance, noise, business days and hours of operation, and days and hours of service of alcoholic beverages are to apply, unless specifically suspended or modified by the municipality or specifically prohibited by the provisions of the bill.

The bill extends the expiration date of the COVID-19 Expansion of Premise Permits (P.L.2022, c.85), issued pursuant to Special Ruling No. 2020-10 by the Division of Alcoholic Beverage Control, until November 30, 2025, and establishes an Expansion of Premise Permit that may be annually renewed.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will result in indeterminate increases in annual State and municipal revenues and expenditures. The OLS estimates the bill may increase expenses for the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, the Department of Transportation, and municipalities. Further, the bill may result in an indeterminate impact on: potential State and municipal revenues collected from the total number of licenses issued annually; future license fees; sales tax on products sold; and any penalty collections from certain restaurants, bars, distilleries, and breweries that expand their premises.

P.L.2022, c.85 extended the expiration date of the COVID-19 Expansion of Premise Permits, issued under Special Ruling No. 2020-10 by the Division of Alcoholic Beverage Control, until November 30, 2024. The extension is set to expire, and this bill extends once again the ruling to November 30, 2025, and thereafter establishes an Expansion of Premise Permit that may be annually renewed. On October 19, 2020, Special Ruling 2020-21 issued by the division allowed for over 2,300 permits to be extended to March 31, 2021. The OLS has not received an updated number of the permits issued since March of 2021.

State Expenditure Impacts: Currently, once a premises expansion permit is approved by a municipal government, the Director of the Division of Alcoholic Beverage Control issues the holder of an alcoholic beverage manufacturer license or retail consumption license a premises expansion permit upon application by the license holder. Those license holders who held a temporary expansion permit issued pursuant to the director's special ruling (2020-10) at the time were entitled to convert the permit to an Expansion of Premise Permit. A permit issued to a restaurant without an alcoholic beverage retail license is subject to annual renewal.

Further, a permit for the use of the State rights-of-way is to be issued upon application and approval of the New Jersey Department of Transportation.

Depending on the resource allocation policies of the respective departments, the added workload may or may not augment State administrative expenditures. The OLS further indicates that this process has been in place for over four years, and it cannot predict how many additional establishments may consider this permit to expand their premises if the permit is annually renewed.

Municipal Expenditure Impacts: The bill may increase costs to municipalities associated with the administration, regulation, and enforcement related to the premises expansion permits. Pursuant to the bill, a zoning officer is required to approve a compliant application within 15 business days of being submitted. An appeal to any approval, denial, revocation, or suspension may be filed through the municipal clerk with the governing body of the municipality. The governing body is required to conduct a hearing and render a decision within 30 days of the filing of the appeal.

The OLS notes the bill may impact municipal law enforcement resources, as there may be an increased need for enforcement of alcoholic beverage statutes and ordinances. Local governments may also incur nominal additional costs to ensure that health protocols are being adhered to at restaurants, bars, distilleries, and breweries with expanded premises.

State and Municipal Revenue Impacts: This bill may increase State revenue from the expansion of the sale of products in expanded businesses that obtain the permit. Additionally, the OLS anticipates that expansion of a premises would increase the number of patrons, thereby increasing the overall sale of alcohol beverage products and increasing the amount of State sales tax collected by the Division of Taxation in the Department of the Treasury.

The OLS does not have information on how many municipalities, if any, are charging application fees for the expansion permits or for the municipal zoning application. The OLS concludes that the bill could result in a potential indeterminate increase in municipal revenues if municipalities pass an ordinance allowing application fees to be charged, if they have not done so already.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Lead Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Signs Legislation Making Outdoor Dining Permanent

11/25/2024

Law Allows Businesses to Continue Expanded Service

TRENTON – Governor Phil Murphy today signed S3608/A4866 into law, making outdoor dining permissions permanent for restaurants and certain alcoholic beverage retailers and manufacturers. The permissions – initially established during the COVID-19 pandemic – were set to expire November 30, 2024, but will now be permanent, offering greater support to the food and beverage industry by facilitating opportunities to expand their licensed premises within designated outdoor space or on public sidewalk.

“Outdoor dining has proven to be an incredibly successful venture over the past four years, benefiting business owners and patrons alike,” **said Governor Murphy**. “I’m proud to continue this popular measure and look forward to seeing our restaurant industry continue to grow.”

“I’m pleased that both New Jersey residents and restaurants will be able to continue enjoying this option, which has a positive impact on our downtowns and enhances our communities,” **said Attorney General Matthew J. Platkin**. “I’d like to thank the bill’s sponsors as well as Governor Murphy for providing the state’s residents with as many choices as possible.”

“This permanent change to the state’s retail consumption segment of the alcoholic beverage industry is a commonsense approach to changing customer preferences,” **said Kirstin Krueger, Interim Director of the Division of Alcoholic Beverage Control**. “I’m gratified that the pivot we made in 2020 will remain, allowing our industry to stay resilient and keep thriving.”

“During the pandemic, outdoor dining was critical to allowing so many restaurants to stay open, keep employees on the payroll, and continue serving loyal customers. Though the pandemic is long behind us, outdoor dining will remain a staple in downtowns and main streets across the state thanks to the bill signed today by Governor Murphy, helping to revitalize communities by attracting more foot traffic, spurring economic activity, and bolstering small businesses,” **said Tim Sullivan, CEO of the Economic Development Authority**.

Today’s legislation will authorize continued use of fixtures such as tents, canopies, umbrellas, tables, and chairs for outdoor dining, making permanent [a law that was signed by the Governor](#) in February of 2021.

Under the new law, the holder of a temporary expansion permit issued by the New Jersey Division of Alcoholic Beverage Control (ABC) may have their temporary permit converted to a permanent permit, which is renewable annually and is issued at the approval of local officials.

The primary sponsors of [S3608/A4866](#) are Senator Paul A. Sarlo, Senator Vincent J. Polistina, Assemblyman Roy

Freiman, Assemblywoman Michelle Drulis, and Assemblywoman Barbara McCann Stamato.

“Outdoor service has proven to be a real success for restaurants and the communities they serve,” **said Senator Paul A. Sarlo, who serves as Mayor of Wood-Ridge.** “It is good for the economy, beneficial for downtown business districts and very popular with patrons and local residents. It is a success story that is well worth continuing.”

“New Jersey businesses benefited immensely from the innovative measures we adopted during COVID to enable the use of outdoor spaces,” **said Senator Vincent J. Polistina.** “By making the temporary outdoor dining and beverage laws permanent, our local businesses will continue to have the flexibility they need to thrive by maintaining the indoor and outdoor seating arrangements that patrons have come to enjoy. This is a big win for business, residents, and local economies.”

“Outdoor dining was a lifeline for restaurants and bars during COVID-19 and is a way to help them thrive in a post-pandemic world while fostering lively-community-centered outdoor spaces,” **said Assemblyman Roy Freiman.** “With the signing of Bill A4866 into law, we create a pathway for these entities to permanently offer outdoor dining, which will benefit patrons, establishment owners, and the economy as a whole.”

“This bill is a direct response to what our constituents have told us they want: more flexibility for business owners and more vibrant spaces to enjoy their favorite local businesses,” **said Assemblywoman Michelle Drulis.** “By cutting red tape and expanding these opportunities, we’re not just listening – we’re delivering, and I am proud to have gotten this done for the residents and restaurant owners in our district.”

“Hudson County embodies the diversity and vibrancy that makes New Jersey unique. By allowing restaurants to expand their outdoor dining options permanently, this legislation will provide critical support to local businesses, creating new opportunities for growth and connection,” **said Assemblywoman Barbara McCann Stamato.** “It’s not just about financial benefits—it’s about fostering community, enhancing the dining experience, and ensuring these establishments continue to thrive.”

“We commend Governor Murphy for extending the outdoor dining rules, a decision that provides critical support to our local restaurants, many of which are owned and operated by small business owners and entrepreneurs. This extension not only allows restaurants to thrive by offering expanded seating options but also plays a significant role in driving economic development across our towns. Outdoor dining has transformed our communities, creating vibrant, engaging environments that attract residents and visitors alike. The governor’s continued commitment to fostering small business success and enhancing our local economies is greatly appreciated, and we look forward to the positive impact this will have on businesses and communities statewide,” **said Michael Egenton, Executive Vice President – Government Relations, New Jersey State Chamber of Commerce.**

“Governor Murphy’s action on this bill is a welcome initiative that recognizes the transformative role outdoor dining plays in our downtowns,” **said Natalie Pineiro, Executive Director of Downtown New Jersey.** “Outdoor dining enhances the vibrancy of our communities, driving foot traffic, supporting small businesses, and contributing to the growth of local economies. This bill will ensure that downtowns across the state remain hubs of activity and innovation, benefiting both businesses and residents alike.”

“Governor Murphy’s decision to make expanded outdoor dining permanent builds on an initiative introduced during COVID-19, a period of immense challenge for businesses. What started as a lifeline for restaurants during COVID-19 has become a lasting solution that supports small businesses, enriches the dining experience and fosters stronger community connections,” **said Carlos Medina, President and CEO of the Statewide Hispanic Chamber of Commerce**

of New Jersey (SHCCNJ). “This policy represents a critical step in ensuring the resilience and growth of Latino-owned restaurants, which is vital to the small business ecosystem in New Jersey and the SHCCNJ community. It’s a pro-business, pro-community model of how innovative policies can transform adversity into enduring opportunities.”

“Since the COVID pandemic, New Jersey craft breweries have found outdoor seating options extremely popular among our customers. In an industry where it is paramount to provide its loyal patrons the hospitality experiences they desire, making outdoor seating areas a permanent option fits into this goal,” **said Scott Wells, Director of Sales at Bolero Snort Brewing Company in Carlstadt and Board Member of the Brewers Guild of New Jersey.** “Not only do these areas provide extra space to enjoy award-winning beers at their local brewery, but they give our partners in the restaurant and bar industry critical opportunities to serve their customers in safe, welcoming outdoor settings statewide.”