

[Second Reprint]

**SENATE, No. 2364**

---

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

---

INTRODUCED MARCH 21, 2022

**Sponsored by:**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**Senator GORDON M. JOHNSON**

**District 37 (Bergen)**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblywoman GABRIELA M. MOSQUERA**

**District 4 (Camden and Gloucester)**

**Assemblyman P. CHRISTOPHER TULLY**

**District 38 (Bergen and Passaic)**

**Co-Sponsored by:**

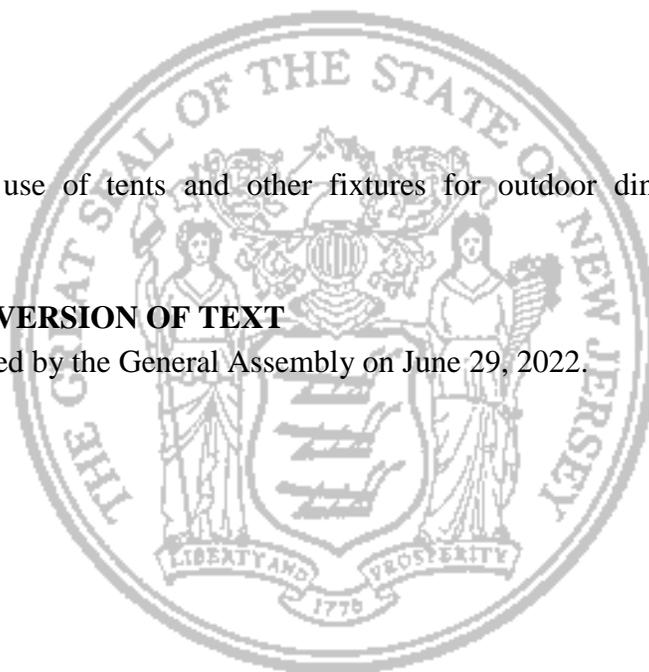
**Senators Oroho, O'Scanlon, Testa, Thompson, Diegnan, Singleton, Turner, Greenstein, Pou, Assemblywomen Piperno, Eulner, Assemblyman Danielsen, Assemblywoman Reynolds-Jackson and Assemblyman Benson**

**SYNOPSIS**

Concerns use of tents and other fixtures for outdoor dining on certain property.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on June 29, 2022.



(Sponsorship Updated As Of: 6/29/2022)

1 AN ACT concerning the use of tents and other fixtures for outdoor  
2 dining on certain property, and amending and supplementing  
3 P.L. 2021, c.15.

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

7  
8 1. Section 1 of P.L.2021, c.15 is amended to read as follows:

9 1. As used in this act, P.L.2021, c.15, and only for the purposes  
10 of this act:

11 “Brewery” means a brewery operating under a brewery license  
12 pursuant to R.S.33:1-10.

13 “Distillery” means a distillery that has been issued, and is in  
14 compliance with, a distillery license pursuant to R.S.33:1-10.

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

17 “Outdoor space” means a patio or deck, whether covered or  
18 uncovered, a yard, a walkway, or a parking lot, or a portion of any  
19 such space, that is located on or adjacent to the business premises,  
20 which space is owned, leased, **[or]** otherwise in the lawful control  
21 of the owner or operator of the business premises, or any space  
22 which is designated by a municipality or county for outdoor dining  
23 pursuant to P.L.2021, c.15.

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

27 “Special Ruling No. 2020-10” means Special Ruling No. 2020-  
28 10, issued by the acting director of the Division of Alcoholic  
29 Beverage Control on June 3, 2020.

30 (cf: P.L.2021, c.15, s.1)

31

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

33 4. a. Notwithstanding the provisions of any other law to the  
34 contrary, the expiration date of any COVID-19 Expansion Permit  
35 issued by the Director of the Division of Alcoholic Beverage  
36 Control pursuant to the provisions of Special Ruling No. 2020-10  
37 shall be November 30, **[2022]** 2024 **[or the date on which indoor**  
38 **dining resumes without capacity limitations pursuant to an**  
39 **executive order issued by the Governor, whichever is later]**.

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

44 (1) failed to follow, maintain, and enforce protocols  
45 promulgated by the Commissioner of Health or by Executive Order

**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:**

<sup>1</sup>Senate SBA committee amendments adopted March 21, 2022.

<sup>2</sup>Assembly floor amendments adopted June 29, 2022.

1 of the Governor in response to the COVID-19 public health  
2 emergency concerning social distancing and the use of personal  
3 protective equipment; or

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

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

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

17 (cf: P.L.2021, c.15, s.4)

18

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

20 10. This act shall take effect on the 30th day following  
21 enactment and sections 1 through 8 shall expire <sup>2</sup>at 11:59 p.m.<sup>2</sup> on  
22 November 30, ~~2022~~ 2024 ~~or on the date of the resumption,~~  
23 pursuant to an executive order issued by the Governor, of indoor  
24 dining without capacity limitations, whichever is later~~]~~.

25 (cf: P.L.2021, c.15, s.10)

26

27 4. (New section) Notwithstanding any provision of law to the  
28 contrary, while P.L.2021, c.15 is in effect, the installation and  
29 continuous use of tents, canopies, umbrellas, tables, chairs, and  
30 other fixtures on private property or public property or right of way  
31 designated by a municipality pursuant to P.L.2021, c.15 and P.L. ,

32 c. (pending before the Legislature as this bill), shall be a  
33 permitted use provided that the tent, canopy, umbrella, table, chairs,  
34 or other fixture conforms to all applicable provisions of the State  
35 Uniform Construction Code and <sup>2</sup>~~[Fire Prevention Subcode]~~  
36 Uniform Fire Code<sup>2</sup>, which have been adopted by the  
37 Commissioner of Community Affairs pursuant to P.L.1975, c.217  
38 (C.52:27D-119, et seq.) <sup>2</sup>and P.L.1983, c.383 (C.52:27D-192 et  
39 seq.), respectively<sup>2</sup>. The permitted use of tents, canopies,

40 umbrellas, tables, chairs, and other fixtures allowed by this section  
41 shall be limited to the timeframe encompassing the first day of  
42 April through the <sup>2</sup>~~[first day of December]~~ close of business on  
43 November 30<sup>2</sup> for each year in which P.L.2021, c.15 is in  
44 effect. Any administrative rule or regulation <sup>2</sup>, with the exception  
45 of those applicable pursuant to the Uniform Construction Code and  
46 Uniform Fire Code,<sup>2</sup> which limits the use of tents, canopies,  
47 umbrellas, tables, chairs and other fixtures to 180 days or less

1 <sup>1</sup>during the time frame encompassing the first day of April through  
2 the <sup>2</sup>**first day of December<sup>1</sup>** close of business on November 30<sup>2</sup>  
3 shall be inapplicable during the time that P.L.2021, c.15 is in effect.  
4 <sup>1</sup>Notwithstanding the foregoing, any administrative rule or  
5 regulation which governs the use of tents, canopies, umbrellas,  
6 tables, chairs, and other fixtures on private or public property or  
7 right of way designated by a municipality pursuant to P.L.2021,  
8 c.15 and P.L. , c. (pending before the Legislature as this bill) for  
9 the time period encompassing the <sup>2</sup>**second** first<sup>2</sup> day of December  
10 through the last day of March shall not be impacted by P.L. ,  
11 c. (pending before the Legislature as this bill).<sup>1</sup>  
12  
13 5. This act shall take effect immediately.