

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.