



General Assembly

Amendment

January Session, 2021

LCO No. 6080



Offered by:

REP. MCCARTHY VAHEY, 133rd Dist.

SEN. CASSANO, 4th Dist.

REP. ZULLO, 99th Dist.

SEN. HWANG, 28th Dist.

To: Subst. House Bill No. 6610

File No. 116

Cal. No. 125

**"AN ACT CONCERNING THE PROVISION OF OUTDOOR FOOD
AND BEVERAGE SERVICE BY RESTAURANTS."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (*Effective from passage*) (a) As used in this section:

4 (1) "Applicable laws of the state" means chapters 14, 97a, 98, 124, 126,
5 242 and 541 of the general statutes, section 22a-27j of the general statutes
6 and any special act, municipal charter, ordinance, resolution or
7 regulation;

8 (2) "COVID-19" means the respiratory disease designated by the
9 World Health Organization on February 11, 2020, as coronavirus 2019,
10 and any related mutation thereof recognized by the World Health
11 Organization as a communicable respiratory disease;

12 (3) "Food establishment" means a food establishment that is licensed
13 or permitted to operate pursuant to section 19a-36i of the general
14 statutes;

15 (4) "Local enforcement official" means a zoning enforcement officer,
16 or such officer's designee, or building official, or such official's designee;

17 (5) "Municipality" has the same meaning as provided in section 8-1a
18 of the general statutes; and

19 (6) "Outdoor activities" means outdoor food and beverage service or
20 outdoor displays of goods for sale. "Outdoor activities" shall not include
21 live entertainment.

22 (b) Notwithstanding the provisions of section 8-3b of the general
23 statutes, for the period commencing on the effective date of this section
24 and ending March 31, 2022, if a zoning administrator, chairperson of a
25 zoning commission or planning and zoning commission or chief elected
26 official of a municipality finds that a proposal to establish or change a
27 zone or regulation to expand or permit outdoor activities is necessary to
28 respond to or provide economic recovery from the COVID-19
29 pandemic, such zoning administrator, chairperson or chief elected
30 official may place such proposal on the public hearing agenda of the
31 zoning commission or planning and zoning commission, as applicable,
32 and such commission shall conduct a public hearing and act on such
33 proposal without the need to comply with the requirements of said
34 section of the general statutes.

35 (c) (1) Notwithstanding any provision of the applicable laws of the
36 state, for the period commencing on the effective date of this section and
37 ending March 31, 2022, any person making a permit application to
38 engage in outdoor activities shall make such application to a local
39 enforcement official, who shall review and make a determination on
40 each such application. If such outdoor activities will occur on a state
41 highway right-of-way, an additional permit application shall be made
42 by such person to the Department of Transportation pursuant to chapter
43 242 of the general statutes. No local enforcement official shall impose a

44 fee for a permit application under this subsection.

45 (2) Notwithstanding any provision of the applicable laws of the state,
46 for the period commencing on the effective date of this section and
47 ending March 31, 2022, any person who makes a permit application to a
48 local enforcement official to engage in outdoor activities shall not be
49 required to submit (A) plans stamped by a licensed engineer, landscape
50 architect or architect, (B) a site survey, (C) a parking plan, (D) a traffic
51 study or plan, (E) a sign plan, (F) a soil erosion and sediment control
52 plan, (G) a photometric lighting plan, or (H) a stormwater management
53 plan, provided such person submits, at a minimum, a (i) drawing or
54 illustration, roughly to scale or dimensioned and depicting with
55 reasonable accuracy the outdoor area proposed to be used and what is
56 proposed to be placed, built or erected in the outdoor area, and (ii)
57 written narrative describing any noise, waste management, odor, light
58 pollution or environmental impacts expected in such outdoor area as a
59 result of such outdoor activities and an explanation of how such impacts
60 will be mitigated. The local enforcement official reviewing such
61 application may require an applicant to submit additional information
62 that such officer deems necessary to protect public health, safety or the
63 environment, provided such officer shall consider the need for
64 expedited review of such applications.

65 (3) Notwithstanding any provision of the applicable laws of the state,
66 for the period commencing on the effective date of this section and
67 ending March 31, 2022, each local enforcement official shall approve,
68 approve with conditions or reject any application for outdoor activities
69 and notify each applicant of such decision in a manner prescribed by the
70 local enforcement official not later than (A) ten days after the receipt of
71 such application, or (B) ten days after the receipt of any additional
72 information requested by the local enforcement official pursuant to
73 subdivision (1) of this subsection. The failure of any local enforcement
74 official to provide such notice shall be deemed to be an approval of such
75 application.

76 (4) Notwithstanding any provision of the applicable laws of the state,

77 for the period commencing on the effective date of this section and
78 ending March 31, 2022, if a local enforcement official approves with
79 conditions or rejects an application pursuant to subdivision (3) of this
80 subsection, the applicant may appeal such decision, not later than seven
81 days after the receipt of notice of such decision, to the zoning
82 commission, planning and zoning commission or chief elected official
83 of the municipality, as applicable. A public hearing shall not be required
84 for any such appeal.

85 (5) Notwithstanding any provision of the applicable laws of the state,
86 for the period commencing on the effective date of this section and
87 ending March 31, 2022, nothing in this subsection shall affect an
88 individual's right to submit a complaint to any relevant municipal
89 authority or the right of any such municipal authority to enforce
90 conditions or requirements associated with permitted outdoor
91 activities, impose fines or issue notices of violations or cease and desist
92 orders.

93 (d) Notwithstanding any provision of the applicable laws of the state,
94 for the period commencing on the effective date of this section and
95 ending March 31, 2022, any person permitted to engage in outdoor
96 activities may engage in such activities (1) on public sidewalks and other
97 pedestrian pathways abutting the area permitted for principal use and
98 on which vehicular access is not allowed, (A) provided a pathway (i) is
99 constructed in compliance with physical accessibility guidelines, as
100 applicable, under the federal Americans with Disabilities Act, 42 USC
101 12101, et seq., as amended from time to time, and (ii) such pathway
102 extends for the length of the lot upon which the area permitted for
103 principal use is located, is not less than four feet in width, not including
104 any area on a street or highway, and remains unobstructed for
105 pedestrian use, and (B) subject to reasonable conditions imposed by the
106 municipal official or agency that issues right-of-way or obstruction
107 permits, (2) on off-street parking spaces or parking lots associated with
108 the permitted use, notwithstanding any municipal ordinance
109 establishing minimum requirements for off-street parking, (3) on any
110 lot, streetface, yard, court or open space abutting, or noncontiguous lot

111 that is not more than one lot, streetface, yard, court or open space
112 removed from, the area permitted for the principal use, provided (A)
113 such lot, streetface, yard, court or open space is located in a zoning
114 district where outdoor activities are permitted, (B) such use is in
115 compliance with any applicable requirements for access or pathways
116 pursuant to physical accessibility guidelines under the federal
117 Americans with Disabilities Act, 42 USC 12101, et seq., as amended from
118 time to time, and (C) such person obtains written authorization to
119 engage in such outdoor activities from the owner of such lot, streetface,
120 yard, court or open space and provides a copy of such authorization to
121 the zoning commission, and (4) until eleven o'clock p.m. on Friday and
122 Saturday and nine o'clock p.m. on all other days of the week, or until
123 times established by the zoning commission, planning and zoning
124 commission or chief elected official of the municipality, as applicable,
125 whichever is later.

126 (e) (1) Notwithstanding any provision of the applicable laws of the
127 state, for the period commencing on the effective date of this section and
128 ending March 31, 2022, the Department of Transportation may allow
129 any person to engage in outdoor activities on a nonvehicular portion of
130 a state highway right-of-way, provided the department establishes any
131 conditions on such use, as deemed necessary by the Commissioner of
132 Transportation.

133 (2) For the period commencing on the effective date of this section
134 and ending March 31, 2022, outdoor activities shall be considered a
135 special event for the purposes of section 14-298-262 of the regulations of
136 Connecticut state agencies.

137 (3) Notwithstanding any provision of the applicable laws of the state,
138 for the period commencing on the effective date of this section and
139 ending March 31, 2022, any municipality shall request a special event
140 permit from the Department of Transportation before closing any part
141 of a vehicular portion of a state highway right-of-way for outdoor
142 activities, in accordance with the provisions of section 14-298-262 of the
143 regulations of Connecticut state agencies. The Department of

144 Transportation shall expedite its review of any such request.

145 (4) Notwithstanding any provision of the applicable laws of the state,
146 for the period commencing on the effective date of this section and
147 ending March 31, 2022, any municipal official having jurisdiction over
148 local roads, in consultation with the municipality's local traffic
149 authority, may close a local road to permit outdoor activities without
150 conducting a public hearing, except that if such local road is utilized as
151 part of a public transportation route, such official shall consult with the
152 Department of Transportation.

153 (f) Notwithstanding any provision of title 30 of the general statutes
154 or any provision of the regulations of Connecticut state agencies, for the
155 period commencing on the effective date of this section and ending
156 March 31, 2022, no entity that is licensed to serve alcoholic beverages
157 shall be required to obtain a patio or extension of use permit to engage
158 in outdoor activities, provided such entity: (1) Complies with the
159 provisions of this section, (2) complies with any rules for outdoor
160 dining, including, but not limited to, safety or social distancing
161 requirements issued by the Governor, the Department of Economic and
162 Community Development or other agency or entity authorized by law
163 or pursuant to an executive order, to issue such requirements in
164 response to the COVID-19 pandemic, (3) complies with any municipal
165 requirements related to outdoor dining or the sale of alcoholic beverages
166 that are consistent with the provisions of this section, (4) complies with
167 any provision of title 30 of the general statutes or regulations of
168 Connecticut state agencies regarding the prohibition of the sale of
169 alcohol to minors or intoxicated persons or regarding restrictions on the
170 times such entity may serve alcoholic beverages, (5) complies with any
171 rules in effect limiting or restricting the sale or consumption of alcoholic
172 beverages only to customers who consume food on such entity's
173 premises, (6) does not maintain an outdoor consumer bar, as defined in
174 section 30-62a of the general statutes, and (7) does not provide live
175 entertainment, unless such entertainment was previously permitted in
176 such entity's outdoor space or such entity obtains permission from the
177 applicable municipal official to provide live entertainment, and the

178 provision of such entertainment complies with any relevant safety or
179 social distancing requirements issued by the Governor, the Department
180 of Economic and Community Development or other agency or entity
181 authorized by law or pursuant to an executive order, to issue such
182 requirements in response to the COVID-19 pandemic.

183 (g) Any outdoor activity allowed pursuant to Executive Order No.
184 7MM of Governor Ned Lamont prior to the effective date of this section
185 shall be deemed approved and permitted in accordance with the
186 requirements of this section until March 31, 2022, without need for
187 reapplication, (1) provided an additional application shall be made for
188 any expansion of a previously approved outdoor activity, except if such
189 expansion is solely related to alterations to reduce the width of a
190 pathway required pursuant to subdivision (1) of subsection (d) of this
191 section, provided such pathway is not reduced to less than four feet in
192 width, and (2) except that any person engaging in a previously
193 approved outdoor activity on a state highway right-of-way who seeks
194 to continue such outdoor activity after April 19, 2021, shall make an
195 application to the Department of Transportation pursuant to chapter
196 242 of the general statutes to ensure compliance with relevant federal
197 requirements.

198 (h) Notwithstanding any provision of the applicable laws of the state,
199 nothing in this section shall alter or affect a nonconforming use or
200 structure or prohibit any person from seeking or obtaining approval for
201 engaging in outdoor activities pursuant to existing municipal zoning
202 regulations.

203 (i) For the period commencing on the effective date of this section and
204 ending March 31, 2022, any minimum requirement for off-street parking
205 or requirement prohibiting outdoor activities from taking place on
206 parking lots shall not apply to the extent required to allow outdoor
207 activities alone or in conjunction with any other activity authorized by
208 law, executive order or municipal regulations, including any activity
209 required to enable the response to the COVID-19 pandemic.

210 (j) The provisions of this section shall be liberally construed to
211 promote the continuation of outdoor activities, as permitted by
212 Executive Order No. 7MM of Governor Ned Lamont."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section