



Substitute House Bill No. 5271

Public Act No. 22-1

AN ACT CONCERNING THE PROVISION OF OUTDOOR FOOD AND BEVERAGE SERVICES AND OUTDOOR DISPLAYS OF GOODS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 1 of special act 21-3 is amended to read as follows
(*Effective from passage*):

(a) As used in this section:

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

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

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

(4) "Local enforcement official" means a zoning enforcement officer,

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or such officer's designee, or building official, or such official's designee;

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

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

(b) Notwithstanding the provisions of section 8-3b of the general statutes, for the period commencing on [the effective date of this section] March 31, 2021, and ending [March 31, 2022] April 30, 2023, if a zoning administrator, chairperson of a zoning commission or planning and zoning commission or chief elected official of a municipality finds that a proposal to establish or change a zone or regulation to expand or permit outdoor activities is necessary to respond to or provide economic recovery from the COVID-19 pandemic, such zoning administrator, chairperson or chief elected official may place such proposal on the public hearing agenda of the zoning commission or planning and zoning commission, as applicable, and such commission shall conduct a public hearing and act on such proposal without the need to comply with the requirements of said section of the general statutes.

(c) (1) Notwithstanding any provision of the applicable laws of the state, for the period commencing on [the effective date of this section] March 31, 2021, and ending [March 31, 2022] April 30, 2023, any person making a permit application to engage in outdoor activities shall make such application to a local enforcement official, who shall review and make a determination on each such application. If such outdoor activities will occur on a state highway right-of-way, an additional permit application shall be made by such person to the Department of Transportation pursuant to chapter 242 of the general statutes. No local enforcement official shall impose a fee for a permit application under this subsection.

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(2) Notwithstanding any provision of the applicable laws of the state, for the period commencing on [the effective date of this section] March 31, 2021, and ending [March 31, 2022] April 30, 2023, any person who makes a permit application to a local enforcement official to engage in outdoor activities shall not be required to submit (A) plans stamped by a licensed engineer, landscape architect or architect, (B) a site survey, (C) a parking plan, (D) a traffic study or plan, (E) a sign plan, (F) a soil erosion and sediment control plan, (G) a photometric lighting plan, or (H) a stormwater management plan, provided such person submits, at a minimum, a (i) drawing or illustration, roughly to scale or dimensioned and depicting with reasonable accuracy the outdoor area proposed to be used and what is proposed to be placed, built or erected in the outdoor area, and (ii) written narrative describing any noise, waste management, odor, light pollution or environmental impacts expected in such outdoor area as a result of such outdoor activities and an explanation of how such impacts will be mitigated. The local enforcement official reviewing such application may require an applicant to submit additional information that such officer deems necessary to protect public health, safety or the environment, provided such officer shall consider the need for expedited review of such applications.

(3) Notwithstanding any provision of the applicable laws of the state, for the period commencing on [the effective date of this section] March 31, 2021, and ending [March 31, 2022] April 30, 2023, each local enforcement official shall approve, approve with conditions or reject any application for outdoor activities and notify each applicant of such decision in a manner prescribed by the local enforcement official not later than (A) ten days after the receipt of such application, or (B) ten days after the receipt of any additional information requested by the local enforcement official pursuant to subdivision (1) of this subsection. The failure of any local enforcement official to provide such notice shall be deemed to be an approval of such application.

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(4) Notwithstanding any provision of the applicable laws of the state, for the period commencing on [the effective date of this section] March 31, 2021, and ending [March 31, 2022] April 30, 2023, if a local enforcement official approves with conditions or rejects an application pursuant to subdivision (3) of this subsection, the applicant may appeal such decision, not later than seven days after the receipt of notice of such decision, to the zoning commission, planning and zoning commission or chief elected official of the municipality, as applicable. A public hearing shall not be required for any such appeal.

(5) Notwithstanding any provision of the applicable laws of the state, for the period commencing on [the effective date of this section] March 31, 2021, and ending [March 31, 2022] April 30, 2023, nothing in this subsection shall affect an individual's right to submit a complaint to any relevant municipal authority or the right of any such municipal authority to enforce conditions or requirements associated with permitted outdoor activities, impose fines or issue notices of violations or cease and desist orders.

(d) Notwithstanding any provision of the applicable laws of the state, for the period commencing on [the effective date of this section] March 31, 2021, and ending [March 31, 2022] April 30, 2023, any person permitted to engage in outdoor activities may engage in such activities (1) on public sidewalks and other pedestrian pathways abutting the area permitted for principal use and on which vehicular access is not allowed, (A) provided a pathway (i) is constructed and maintained in compliance with physical accessibility guidelines, as applicable, under the federal Americans with Disabilities Act, 42 USC 12101, et seq., as amended from time to time, and the State Building Code, and (ii) such pathway extends for the length of the lot upon which the area permitted for principal use is located, is not less than four feet in width, not including any area on a street or highway, and remains unobstructed for pedestrian use, and (B) subject to reasonable conditions imposed by

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the municipal official or agency that issues right-of-way or obstruction permits, (2) on off-street parking spaces or parking lots associated with the permitted use, notwithstanding any municipal ordinance establishing minimum requirements for off-street parking, (3) on any lot, streetface, yard, court or open space abutting, or noncontiguous lot that is not more than one lot, streetface, yard, court or open space removed from, the area permitted for the principal use, provided (A) such lot, streetface, yard, court or open space is located in a zoning district where outdoor activities are permitted, (B) such use is in compliance with any applicable requirements for access or pathways pursuant to physical accessibility guidelines under the federal Americans with Disabilities Act, 42 USC 12101, et seq., as amended from time to time, and the State Building Code, and (C) such person obtains written authorization to engage in such outdoor activities from the owner of such lot, streetface, yard, court or open space and provides a copy of such authorization to the zoning commission, and (4) until eleven o'clock p.m. on Friday and Saturday and nine o'clock p.m. on all other days of the week, or until times established by the zoning commission, planning and zoning commission or chief elected official of the municipality, as applicable, whichever is later.

(e) (1) Notwithstanding any provision of the applicable laws of the state, for the period commencing on [the effective date of this section] March 31, 2021, and ending [March 31, 2022] April 30, 2023, the Department of Transportation may allow any person to engage in outdoor activities on a nonvehicular portion of a state highway right-of-way, provided the department establishes any conditions on such use, as deemed necessary by the Commissioner of Transportation.

(2) For the period commencing on [the effective date of this section] March 31, 2021, and ending [March 31, 2022] April 30, 2023, outdoor activities shall be considered a special event for the purposes of section 14-298-262 of the regulations of Connecticut state agencies.

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(3) Notwithstanding any provision of the applicable laws of the state, for the period commencing on [the effective date of this section] March 31, 2021, and ending [March 31, 2022] April 30, 2023, any municipality shall request a special event permit from the Department of Transportation before closing any part of a vehicular portion of a state highway right-of-way for outdoor activities, in accordance with the provisions of section 14-298-262 of the regulations of Connecticut state agencies. The Department of Transportation shall expedite its review of any such request.

(4) Notwithstanding any provision of the applicable laws of the state, for the period commencing on [the effective date of this section] March 31, 2021, and ending [March 31, 2022] April 30, 2023, any municipal official having jurisdiction over local roads, in consultation with the municipality's local traffic authority, may close a local road to permit outdoor activities without conducting a public hearing, except that if such local road is utilized as part of a public transportation route, such official shall consult with the Department of Transportation.

(f) Notwithstanding any provision of title 30 of the general statutes or any provision of the regulations of Connecticut state agencies, for the period commencing on [the effective date of this section] March 31, 2021, and ending [March 31, 2022] April 30, 2023, no entity that is licensed to serve alcoholic beverages shall be required to obtain a patio or extension of use permit to engage in outdoor activities, provided such entity: (1) Complies with the provisions of this section, (2) complies with any rules for outdoor dining, including, but not limited to, safety or social distancing requirements issued by the Governor, the Department of Economic and Community Development or other agency or entity authorized by law or pursuant to an executive order, to issue such requirements in response to the COVID-19 pandemic, (3) complies with any municipal requirements related to outdoor dining or the sale of alcoholic beverages that are consistent with the provisions of this

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section, (4) complies with any provision of title 30 of the general statutes or regulations of Connecticut state agencies regarding the prohibition of the sale of alcohol to minors or intoxicated persons or regarding restrictions on the times such entity may serve alcoholic beverages, (5) complies with any rules in effect limiting or restricting the sale or consumption of alcoholic beverages only to customers who consume food on such entity's premises, (6) does not maintain an outdoor consumer bar, as defined in section 30-62a of the general statutes, and (7) does not provide live entertainment, unless such entertainment was previously permitted in such entity's outdoor space or such entity obtains permission from the applicable municipal official to provide live entertainment, and the provision of such entertainment complies with any relevant safety or social distancing requirements issued by the Governor, the Department of Economic and Community Development or other agency or entity authorized by law or pursuant to an executive order, to issue such requirements in response to the COVID-19 pandemic.

(g) Any outdoor activity allowed pursuant to Executive Order No. 7MM of Governor Ned Lamont prior to [the effective date of this section] March 31, 2021, shall be deemed approved and permitted in accordance with the requirements of this section until [March 31, 2022] April 30, 2023, without need for reapplication, (1) provided an additional application shall be made for any expansion of a previously approved outdoor activity, except if such expansion is solely related to alterations to reduce the width of a pathway required pursuant to subdivision (1) of subsection (d) of this section, provided such pathway is not reduced to less than four feet in width, and (2) except that any person engaging in a previously approved outdoor activity on a state highway right-of-way who seeks to continue such outdoor activity after April 19, 2021, shall make an application to the Department of Transportation pursuant to chapter 242 of the general statutes to ensure compliance with relevant federal requirements.

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

(i) For the period commencing on [the effective date of this section] March 31, 2021, and ending [March 31, 2022] April 30, 2023, any minimum requirement for off-street parking or requirement prohibiting outdoor activities from taking place on parking lots shall not apply to the extent required to allow outdoor activities alone or in conjunction with any other activity authorized by law, executive order or municipal regulations, including any activity required to enable the response to the COVID-19 pandemic.

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

Sec. 2. (NEW) (*Effective May 1, 2023*) (a) For the purposes of this section, "beverage" includes alcoholic liquor or an alcoholic beverage, as defined in section 30-1 of the general statutes, "food establishment" means a food establishment that is licensed or permitted to operate pursuant to section 19a-36i of the general statutes and "municipality" has the same meaning as provided in section 8-1a of the general statutes.

(b) Notwithstanding any provision of the general statutes, special act, municipal charter or ordinance, the zoning commission of each municipality shall allow any licensee or permittee of a food establishment operating in such municipality to engage in outdoor food and beverage service as an accessory use of such food establishment's permitted use. Such accessory use shall be allowed as of right, subject only to any required administrative site plan review to determine conformance with zoning requirements not contemplated by this

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section, provided such accessory use would not result in the expansion of a nonconforming use.

(c) Any such licensee or permittee may engage in outdoor food and beverage service (1) on public sidewalks and other pedestrian pathways abutting the area permitted for principal use and on which vehicular access is not allowed, (A) provided such pathway (i) is constructed and maintained in compliance with physical accessibility guidelines, as applicable, under the federal Americans with Disabilities Act, 42 USC 12101, et seq., as amended from time to time, and the State Building Code, and (ii) extends for the length of the lot upon which the area permitted for principal use is located, and not less than four feet in width, not including any area on a street or highway, shall remain unobstructed for pedestrian use, and (B) subject to reasonable conditions imposed by the municipal official or agency that issues right-of-way or obstruction permits; (2) on off-street parking spaces associated with the permitted use, notwithstanding any municipal ordinance or zoning regulation establishing minimum requirements for off-street parking; (3) on any lot, yard, court or open space abutting the area permitted for principal use, provided (A) such lot, yard, court or open space is located in a zoning district where the operation of food establishments is permitted, (B) such use is in compliance with any applicable requirements for access or pathways pursuant to physical accessibility guidelines under the federal Americans with Disabilities Act, 42 USC 12101, et seq., as amended from time to time, and the State Building Code, and (C) the licensee or permittee obtains written authorization to engage in such service from the owner of such lot, yard, court or open space and provides a copy of such authorization to the zoning commission; and (4) until 9 o'clock p.m., or a time established by the zoning commission of the municipality, whichever is later.

Sec. 3. Section 8-1cc of the general statutes is repealed. (*Effective from passage*)

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Approved March 24, 2022