
OLR Bill Analysis

sHB 5271

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

SUMMARY

This bill:

1. extends by 13 months, until April 30, 2023, the law that broadly permits the continuation of as-of-right outdoor dining and retail activities authorized by the governor's executive orders during the pandemic (§ 1); and
2. correspondingly delays, from April 1, 2022, to May 1, 2023, the effective date of provisions requiring municipalities to allow, in perpetuity, outdoor dining as an as-of-right accessory use to a food establishment (§ 2).

The bill requires outdoor activities to be operated so that pedestrian pathways and means of access comply with the physical accessibility guidelines in the State Building Code. The laws already require pathways to be constructed, and access to be provided, that comply with the Americans with Disabilities Act's (ADA) physical accessibility guidelines.

By broadly authorizing the continuation of outdoor dining and retail activities through April 30, 2023, the bill also extends the sunset of, among other things: (1) the process for zoning officials to expedite a public hearing on outdoor activity-related zone changes or zoning regulation changes and (2) a requirement that the Department of Transportation expedite reviewing requests to close any part of the vehicular portion of a state highway right-of-way for outdoor activities (§ 1).

The bill also makes technical and conforming changes, including

repealing a law currently set to take effect on April 1, 2022 (§ 3) and replacing it with substantially similar provisions taking effect on May 1, 2023 (§ 2).

EFFECTIVE DATE: Upon passage, except the permanent outdoor dining accessory use authorization is effective May 1, 2023.

EXTENSION OF CURRENT OUTDOOR ACTIVITIES LAW

SA 21-3 authorized the continuation of outdoor retail and dining activities, as permitted by the governor's executive orders. SA 21-3 took effect on March 31, 2021, and is currently set to sunset on March 31, 2022. The bill delays this sunset by 13 months, until April 30, 2023. Under this law, if a business that is not already engaged in outdoor dining or retail activities pursuant to an executive order wants to start engaging in them, it must apply to the local zoning or building official, who will conduct an administrative review of the application (§ 1).

In conformity with the delayed sunset, the bill also delays provisions enacted as part of PA 21-2, June Special Session, § 182, which take effect after that sunset and generally require municipalities to allow, in perpetuity, outdoor dining as an accessory use to a food establishment. The bill does this by repealing the law (CGS § 8-1cc) that currently takes effect on April 1, 2022, and replacing it with substantially similar provisions taking effect May 1, 2023. Under both the repealed and replacement provisions, unless the standard zoning approval process was followed, to continue outdoor dining operations after April 30, 2023, businesses will have to seek local approval under the bill's terms (§§ 2 & 3).

EXPANDED ACCESSIBILITY REQUIREMENTS

Both laws specifically allow outdoor activities on public sidewalks and abutting pedestrian pathways where vehicles are not allowed, if a pathway is provided that:

1. is constructed in compliance with the federal ADA's physical accessibility guidelines,
2. extends for the length of the lot (parcel),

3. is at least four feet wide (excluding any portion that is on a street or highway), and
4. remains unobstructed for pedestrian use.

The bill also requires the pathway to be (1) constructed and maintained in compliance with the State Building Code's physical accessibility guidelines and (2) maintained in compliance with the ADA's physical accessibility guidelines.

Both laws also allow outdoor activities on certain nearby lots, yards, courts, or other open spaces if the use complies with any applicable requirements for access or pathways under the ADA's physical accessibility guidelines. The bill expands this requirement by requiring that the use also comply with access- or pathway-related physical accessibility guidelines in the State Building Code.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 26 Nay 0 (03/11/2022)