

**STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

**AN 2020-10 – ADVISORY NOTICE TO THE INDUSTRY REGARDING EXECUTIVE
ORDER NOS. 194 AND 195 AND NEW MITIGATION MEASURES FOR INDOOR AND
OUTDOOR DINING**

Background: On November 10, 2020, Governor Murphy signed [Executive Order No. 194 \(2020\)](#) (“EO No. 194”), which includes new mitigation measures to address the recent spike in COVID-19 cases in New Jersey. EO No. 194 places new restrictions on businesses that serve food and drinks to the public and became effective on Thursday, November 12, 2020 at 6:00 a.m.

On November 12, 2020, Governor Murphy signed [Executive Order No. 195 \(2020\)](#) (“EO No. 195”), effective immediately, which permits municipalities and counties to further impose additional restrictions on the hours of operation of, among other things, non-essential businesses and food and beverage establishments, between the hours of 8:00 p.m. and 5:00 a.m.

In addition to EO No. 194 and EO No. 195, the Department of Health (“DOH”) issued revised [Health and Safety Standards for Outdoor Dining Pursuant to Executive Order Nos. 150, 157 and 194 \(November 12, 2020\)](#) and [Health and Safety Standards for Indoor Dining Pursuant to Executive Order Nos. 183 and 194 \(December 11, 2020\)](#) (collectively referred to as “DOH Health and Safety Standards”).

The following is provided as guidance to assist licensees in complying with EO Nos. 194 and 195 and revised DOH Health and Safety Standards. In the event of a conflict between this Advisory Notice and either EO Nos. 194 or 195 or revised DOH Health and Safety Standards for Outdoor and Indoor Dining, EO Nos. 194 or 195 or revised DOH Health and Safety Standards for Outdoor and Indoor Dining shall govern.

Applicability: The following licensees or permittees (collectively referred to as “licensees”) with on-premises retail consumption privileges must comply with new indoor and outdoor requirements beginning on November 12, 2020:

1. Plenary Retail Consumption licensees (“33”);
2. Plenary Retail Consumption licensees with the “broad package privilege” (“32”);
3. Seasonal Retail Consumption licensees (“34”);
4. Plenary Retail Consumption licensees operating under the Hotel/Motel exception (“36”);
5. State Concessionaire permittees (“14”);
6. Golf Facility permittees (“40”);
7. Club licensees (“31”);
8. Limited Brewery licensees (“11”);
9. Restricted Brewery licensees (“08”);
10. Plenary Winery licensees (“21”);
11. Farm Winery licensees (“22”);

12. Cidery and Meadery licensees (“02”); and
13. Craft Distillery licensees (“07”).

Permissible Hours: EO No. 194 (2020) requires that the licensees listed above must close their indoor operations to the public from 10:00 p.m. until 5:00 a.m. each day.** Licensees must ensure that patrons are finished with their meals and/or drinks and have exited the indoor premises by 10:00 p.m. Licensees may remain open during their full range of normal business hours for outdoor dining and food delivery and/or take-out services. Licensees are permitted to allow patrons access to indoor bathrooms after 10:00 p.m. and patrons are permitted to remain indoors after 10:00 p.m. for the purposes of ordering and/or waiting for take-out food service, provided patrons comply with all health and safety measures required by Executive Orders and/or revised DOH Health and Safety Standards for Indoor Dining. EO No. 194 (2020) does not apply to indoor dining in airports in the State.

Pursuant to EO No. 195 (2020), municipalities and counties are permitted to impose additional restrictions on a licensee’s hours of operation. However, no municipality or county can prevent a licensee from arranging for the pickup or delivery of goods or otherwise limit their scope of operations.

Indoor Bar Service: Licensees are prohibited from seating and serving patrons at any indoor bar area during all operating hours. Service to patrons standing in indoor bar areas is also prohibited during all operating hours.

Outdoor Bar Service: Licensees are prohibited from serving patrons standing in outdoor bar areas during all operating hours. Licensees may continue to serve patrons seated at outdoor bar areas.

Table Seating & Bar areas: The DOH Health and Safety Standards for Indoor Dining (December 11, 2020) require establishments with bars to place tables at least six feet from the bar, as measured from the inside of the bar. However, if the bar is not in use by staff and is also blocked off by rope or similar means, tables may be placed closer than six feet to the bar, but licensees must abide by other spacing requirements included in the DOH Health and Safety Standards for Indoor Dining.

Indoor and Outdoor Dining: Licensees permitted to offer in-person service at indoor (except for indoor bar areas) areas and outdoor areas must ensure that tables are at least six feet apart in all directions from any other table or seat, as required by the revised DOH Health and Safety Standards for Indoor and Outdoor Dining.

Where six feet of distance is not possible in licensed establishments with small indoor seating areas, licensees must erect barriers between tables pursuant to guidance issued by DOH in revised Health and Safety Standards for Indoor Dining, while still complying with the 25 percent capacity limits in EO No. 183 (2020) for indoor dining.

Outdoor Dining Structures: Outdoor enclosed structures, such as plastic domes, to seat individual parties, are included in the definition of “outdoor areas” defined in Paragraph 4 of EO No. 163. These structures must meet the following criteria: (i) the use of the structures complies

with the requirements for outdoor dining contained in EO No. 157 (2020) and guidance issued by the Department of Health, (ii) each party in an outdoor enclosed structure is limited to no more than eight individuals at a time, (iii) the structure is ventilated, cleaned, and sanitized in accordance with CDC and Department of Health guidance between seatings, (iv) the structure and use of the structures comply with all other applicable codes and regulations, including the Fire Safety Code, and (v) any necessary municipal approvals and permits are obtained prior to the use of the structures.

Other outdoor structures, such as large tents, domes, and canopies must continue to follow the terms of EO Nos. 157, 163 and 194 (2020) and DOH Health and Safety Standards for Outdoor Dining.

Other: Executive Order No. 194 provides that retail, recreational, and/or entertainment businesses (for example, bowling alleys, movie theaters, billiard halls) may continue operating their indoor premises to the public after 10:00 p.m., but only if the consumption of food and/or beverages is prohibited between the hours of 10:00 p.m. and 5:00 a.m. Where the primary business is the operation of a bar or restaurant, establishments must eliminate all ancillary amenities and activities that would encourage close person-to-person contact, such as dance floors, games, including darts and billiards, and karaoke.

Establishment owners, employees, and patrons should review EO Nos. 194 and 195, all other applicable Executive Orders, and revised DOH Health and Safety Standards for Outdoor and Indoor Dining. Any questions concerning this Advisory Notice should be directed to DAG Jillian Mahoney at (609) 376-9639.



JAMES B. GRAZIANO
DIRECTOR

Dated: December 22 , 2020