



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 536: Temporary Outdoor Seating for Restaurants.

2019-2020 General Assembly

Committee:	Senate Commerce and Insurance. If favorable, re-refer to Rules and Operations of the Senate	Date:	May 20, 2020
Introduced by:	Reps. McGrady, Boles, Fisher, Hardister	Prepared by:	Amy Darden
Analysis of:	PCS to Fifth Edition H536-CSST-71		Kristen L. Harris Committee Staff

OVERVIEW: *The PCS for House Bill 536, in response to the COVID-19 pandemic, temporarily authorizes existing food establishments to offer and operate outdoor dining and beverage service options, provided specific conditions are met.*

The PCS replaces the prior language in House Bill 536.

CURRENT LAW AND BACKGROUND:

- On March 10, 2020, by Executive Order No. 116, Governor Cooper declared a State of Emergency to address COVID-19.
- On March 17th, under Executive Order No. 118, the Governor limited the sale of food and beverages (restaurants and bars) to carry-out, drive-through, and delivery only until March 31st, or until the Order was rescinded or replaced.
- On March 27th by Executive Order No. 121, the restrictions for off-premises consumption only were upheld to be effective for 30 days from March 30th unless repealed, replaced, or rescinded by another Order.
- On April 23, 2020 by Executive Order No. 135, the restrictions on restaurants and bars were further extended to May 8, 2020.
- On May 5, 2020, the Governor issued Executive Order No. 138 which extended restrictions on restaurants and bars and encouraged restaurants to follow social distancing and transmission reduction recommendations (face masks.) Order No. 138 is to remain in effect until 5:00 p.m. on May 22nd.
- On May 14, 2020, the Centers for Disease Control and Prevention published a flow chart "to assist businesses in the food service industry, such as restaurants and bars, in making (re)opening decisions during the COVID-19 pandemic." A link to the flowchart can be found [here](#).

BILL ANALYSIS: The PCS of House Bill 536 would allow any food establishment that prepares or serves food or drink (Part 6, Article 8 of Chapter 130A) to open and operate for on-premises consumption provided the following conditions are met:

- The establishment is properly licensed and permitted and was in existence on March 10, 2020;

Karen Cochrane-Brown
Director



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Division
919-733-2578

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- The establishment is not a private club, private bar, winery, brewery, or distillery;
- Service is limited to any authorized indoor seating and outdoor seating location and has access to toilet facilities for employees and customers;
- The outdoor seating location is limited to 50% of the current indoor capacity or 100 customers, whichever is less;
- If the establishment holds ABC permits, vertical boundaries delineate the alcohol consumption area in the outdoor seating location from general public areas;
- The establishment maintains and enforces social distancing, as recommended by the CDC and NCDHHS and complies with outdoor food and drink service regulations promulgated by the Division of Public Health;
- The outdoor seating location may include public sidewalks and public streets, if allowed by local government;
 - The outdoor seating area authorized by the PCS shall not be prohibited by a local government based upon it not being a permitted use for operation of food and drink services under zoning ordinances.

EFFECTIVE DATE: The PCS will become effective when it becomes law, and will expire when the declaration of emergency prohibitions and restrictions are lifted to allow full operation of the covered establishments.