INTRODUCED BY EVERETT, IRVIN, TOPPER, SCHLEGEL CULVER, TOBASH, BERNSTINE, PICKETT, DRISCOLL, WHEELAND, RYAN, MIHALEK, KAUFFMAN, CAUSER, HAHN, STRUZZI, BARRAR, SCHMITT, JAMES, GROVE, Masser, Fee, Moul, ZimmerMan, Keefer, JozwiaK, Gaydos, Millard, Saylor, DeLuca, Nelson, Rigby, Neilson, Staats, Farry, Roae, Thomas, Murt, Dowling, Ecker, Quinn, Hickernell and Gleim, May 13, 2020

SENATOR STEFANO, LAW AND JUSTICE, IN SENATE, AS AMENDED, SEPTEMBER 8, 2020

AN ACT

Amending the act of April 9, 1929 (P.L.177, No.175), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employees in certain departments, boards, and commissions; providing for judicial administration; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employees of certain departments, boards and commissions shall be determined," providing for establishment indoor space

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:
Section 1. The act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is amended by adding an article to read:

ARTICLE I-A

ESTABLISHMENT INDOOR SPACE OPERATION

ESTABLISHMENT OPERATION

(A) ESTABLISHMENT INDOOR SPACE OPERATION

Section 101-A. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Designated county." A county designated by executive order in the yellow or green phase of reopening.

"COVID-19 DISASTER EMERGENCY." THE PROCLAMATION OF DISASTER EMERGENCY ISSUED BY THE GOVERNOR ON MARCH 6, 2020, PUBLISHED AT 50 PA.B. 1644 (MARCH 21, 2020), AND ANY RENEWAL OF THE STATE OF DISASTER EMERGENCY.

"Establishment." As follows:

(1) The term includes the following when located in a designated county:

(i) A restaurant, bar, HOTEL or private club which serves food and beverages.

(ii) Brewpubs, breweries, wineries and distilleries.

(II) A BREWPUB, BREWERY, WINERY OR DISTILLERY.

(III) AN EVENT VENUE.

(2) The term shall not include a night club, music or entertainment venue.

"EVENT VENUE." AS FOLLOWS:

(1) THE TERM INCLUDES A BANQUET HALL, PRIVATE CLUB OR ESTABLISHMENT WHICH REGULARLY HOLDS EVENTS.
THE TERM SHALL NOT INCLUDE A NIGHT CLUB OR MUSIC VENUE.

Section 102-A. Operation.

An establishment with inside seating in existence on the effective date of this section may, beginning on the effective date of this section, begin operation on the inside seating portion of the establishment.

Section 103-A. Requirements.

(a) Applicability.--This section shall apply to an establishment operating under section 102-A.

(b) Guidelines.--

(1) Except as provided under paragraph (2), an establishment shall follow guidelines issued by the Centers for Disease Control and Prevention and the Commonwealth regarding business and building operations.

(2) An establishment may, consistent with guidelines issued by the Centers for Disease Control and Prevention and the Commonwealth regarding business and building operations, use suitable barriers in addition to social distancing requirements.

(c) Applicable practices.--An establishment shall, to the extent possible, follow applicable practices of the:


(2) United States Food and Drug Administration's Best Practices for Retail Food Stores, Restaurants, and Food Pick-Up/Delivery Services During the COVID-19 Pandemic.

(d) Limitation.--An establishment may not use more than 50% of the establishment's seating capacity during operation.
(B) GUIDELINES.—THE FOLLOWING SHALL APPLY:

(1) AN ESTABLISHMENT SHALL BE PERMITTED TO OPERATE AT A MINIMUM OF 50% CAPACITY FOR INDOOR DINING WITH SOCIAL DISTANCING CONSISTENT WITH GUIDELINES ISSUED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION AND THE COMMONWEALTH OR MAINTAIN PHYSICAL BARRIERS.

(2) AN ESTABLISHMENT MAY BE PERMITTED TO OPERATE ABOVE 50% CAPACITY FOR INDOOR DINING IF ALLOWED BY THE GUIDELINES ISSUED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION AND THE COMMONWEALTH OR MAINTAIN PHYSICAL BARRIERS.

SECTION 104-A. PROHIBITION ON MEAL REQUIREMENT TO PURCHASE ALCOHOLIC BEVERAGES.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, AN ESTABLISHMENT SHALL NOT BE SUBJECT TO AN EXECUTIVE ORDER DURING THE COVID-19 DISASTER EMERGENCY WHICH:

(1) REQUIRES THE PURCHASE OF A MEAL TO BUY ALCOHOLIC BEVERAGES.

(2) PROHIBITS BAR SERVICE FOR FOOD AND BEVERAGES.

Section 104-A 105-A. Expiration.

This article SUBARTICLE shall expire upon termination or expiration of the declaration of disaster emergency issued by the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020) COVID-19 DISASTER EMERGENCY.

(B) OUTDOOR SPACE OPERATION

SECTION 110-A. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBARTICLE SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"BOARD." AS DEFINED UNDER SECTION 102 OF THE LIQUOR CODE.

"LIQUOR CODE." THE ACT OF APRIL 12, 1951 (P.L.90, NO.51).
Known as the Liquor Code.

Section 111-A. Outdoor Space Operation.

Notwithstanding any other provision of law, in addition to the authority specified in section 462 of the Liquor Code,
during the proclamation of disaster emergency issued by the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020), and any renewal of the state of disaster emergency, the following shall apply:

1. Upon receipt of a request from a Club, catering club, restaurant, retail dispenser, hotel, limited distillery, distillery, brewery or limited winery licensed under the Liquor Code, the Board may temporarily extend the licensed premises of the applicant to include any outside serving area that is:
   
   (I) immediately adjacent to the existing licensed areas; or
   
   (II) noncontinuous and within 250 feet of the main licensed building.

2. The Board shall grant immediate operating authority to the applicant to use the outside serving area subject to the request while the Board processes the request.

3. The operating authority shall expire at the earliest of any of the following:
   
   (I) a valid protest is received.
   
   (II) the Board determines that the proposed area does not meet the requirements of this Act and Board regulations for the licensing of the area in question.
   
   (III) the state of disaster emergency is terminated or expires under 35 Pa.C.S. § 7301(c) (relating to general authority of Governor).
(4) NO FILING FEE SHALL BE REQUIRED FROM THE APPLICANT.

(5) THE BOARD MAY REQUIRE THE APPLICANT TO PROVIDE ANY INFORMATION THAT THE BOARD DEEMS RELEVANT.

(6) AN OUTDOOR SERVING AREA APPROVED UNDER THIS SUBSECTION MAY ONLY BE UTILIZED FOR PURPOSES OF OUTDOOR DINING AND MAY NOT INCLUDE A KITCHEN OR A BAR.

Section 2. This act shall take effect immediately.