

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019**

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**HOUSE BILL 536  
Committee Substitute Favorable 5/1/19  
Committee Substitute #2 Favorable 6/27/19  
Committee Substitute #3 Favorable 7/8/19  
Fifth Edition Engrossed 7/9/19  
PROPOSED SENATE COMMITTEE SUBSTITUTE H536-PCS30567-ST-71**

Short Title: Temp Outdoor Restaurants for Outdoor Seating.

(Public)

Sponsors:

Referred to:

April 3, 2019

A BILL TO BE ENTITLED  
AN ACT TO AUTHORIZE CERTAIN EXISTING ESTABLISHMENTS TO OFFER AND  
OPERATE OUTDOOR DINING AND BEVERAGE SERVICE OPTIONS WHILE ALSO  
SAFEGUARDING THE PUBLIC HEALTH TO PREVENT THE SPREAD OF  
CORONAVIRUS DISEASE 2019 (COVID-19).

The General Assembly of North Carolina enacts:

**SECTION 1.** Notwithstanding any declaration of emergency issued under Article 1A of Chapter 166A of the General Statutes or any municipal or county ordinance adopted under that Article related to the public health emergency created by COVID-19, any establishment that prepares or serves food or drink, as defined in and regulated under Part 6 of Article 8 of Chapter 130A of the General Statutes, may open and operate its food and drink service for on-premises consumption provided all the following apply:

- (1) The establishment was in existence on March 10, 2020, is properly licensed and permitted, and holds all necessary State and local regulatory permits, including, if applicable, any necessary ABC permits.
- (2) If the establishment holds ABC permits, the establishment is not any of the following:
  - a. A private club as defined by G.S. 18B-1000.
  - b. A private bar as defined by G.S. 18B-1000.
  - c. A winery permitted pursuant to G.S. 18B-1101 or G.S. 18B-1102.
  - d. A brewery permitted pursuant to G.S. 18B-1104.
  - e. A distillery permitted pursuant to G.S. 18B-1105.
- (3) The food and drink service operation for on-premises consumption is limited to any authorized indoor seating and to the outdoor seating location. The owner or owners of that outdoor seating location must have granted the establishment permission to use the location for its food and drink service operation.
- (4) The outdoor food and drink service seating capacity is limited to fifty percent (50%) of the current indoor seating capacity of the establishment, or 100 customers, whichever is less.
- (5) The outdoor seating location is on the same parcel or is contiguous to or in close proximity to the underlying establishment and contains or has access to



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lavatory and toilet facilities for employees and customers as required for such establishments under rules established by the North Carolina Department of Health and Human Services.

(6) If the establishment holds ABC permits and serves alcohol pursuant to those permits, the outdoor seating location must have delineated vertical boundaries that the consumer would recognize as indicating the boundaries that physically separate areas where consumption of alcohol is allowed from areas open to the general public other than customers of the establishment.

(7) The establishment maintains and enforces the social distancing requirements recommended by the federal Centers for Disease Control and Prevention and the North Carolina Department of Health and Human Services.

(8) The establishment complies with all rules and regulations promulgated by the Division of Public Health of the North Carolina Department of Health and Human Services applicable to outdoor food and drink service.

(9) The outdoor seating location may include a covered patio or areas covered by tents, awnings, tarps, umbrellas, or other similar coverings.

(10) The outdoor seating location may include areas on a public sidewalk if the local government allows through its ordinances or permitting process the use of public sidewalks for the service of and consumption of food or drink and the establishment obtains any necessary local government approval. Nothing in this act is intended to require a local government to approve the use of public sidewalks for the service of and consumption of food or drink.

(11) The outdoor seating location may include areas on a public street if the local government allows through its ordinances or permitting process the use of public streets during periods of temporary street closure for the service of and consumption of food or drink and the establishment obtains any necessary local government approval. Nothing in this act is intended to require a local government to temporarily close public streets for the service of and consumption of food or drink or to allow the service of and consumption of food or drink on public streets during a period of temporary closure.

**SECTION 2.** The outdoor seating area authorized in Section 1 of this act shall not be prohibited by a municipality or county because the outdoor seating area is not a permitted use for operation of food and drink services under zoning ordinances.

**SECTION 3.** This act is effective when it becomes law and expires when the applicable declaration of emergency prohibitions and restrictions are lifted to allow full opening of the establishment for service of food and drink.