

SENATE, No. 757

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

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Senator Ruiz

SYNOPSIS

Authorizes special occasion events at certain farms on preserved farmland, under certain conditions.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/7/2022)

1 AN ACT concerning special occasion events on preserved farmland
2 and supplementing Title 4 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in this act:

8 "Board" means a county agriculture development board
9 established pursuant to section 7 of P.L.1983, c.32 (C.4:1C-14).

10 "Commercial farm" means the same as that term is defined in
11 section 3 of P.L.1983, c.31 (C.4:1C-3).

12 "Committee" means the State Agriculture Development
13 Committee established pursuant to section 4 of P.L.1983, c.31
14 (C.4:1C-4).

15 "Grantee" means the entity to which the development rights of a
16 preserved farm were conveyed pursuant to the provisions of section 24
17 of P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-
18 31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999,
19 c.180 (C.4:1C-43.1), sections 37 through 40 of P.L.1999, c.152
20 (C.13:8C-37 through C.13:8C-40), or any other State law enacted for
21 farmland preservation purposes. "Grantee" shall include all entities
22 which lawfully succeed to the rights and responsibilities of a grantee,
23 including, but not limited to, the grantee's successors and assigns.

24 "Occupied area" means any area supporting the activities and
25 infrastructure associated with a special occasion event including, but
26 not limited to: an area for parking, vendors, tables, equipment,
27 infrastructure, or sanitary facilities; an existing building; or a
28 temporary or portable structure.

29 "Preserved farmland" means land on which a development
30 easement was conveyed to, or retained by, the State Agriculture
31 Development Committee, a county agriculture development board, a
32 county, a municipality, or a qualifying tax exempt nonprofit
33 organization pursuant to the provisions of section 24 of P.L.1983, c.32
34 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 1 of
35 P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180 (C.4:1C-
36 43.1), sections 37 through 40 of P.L.1999, c.152 (C.13:8C-37 through
37 C.13:8C-40), or any other State law enacted for farmland preservation
38 purposes.

39 "Special occasion event" means a wedding, lifetime milestone
40 event, or other cultural or social event conducted, in whole or in part,
41 on preserved farmland on a commercial farm. "Special occasion
42 event" shall not include:

43 (1) an activity which is eligible to receive right to farm benefits
44 pursuant to the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.);

45 (2) a recreational use permitted pursuant to a farmland
46 preservation deed of easement; or

47 (3) a wedding held for:

1 (a) a spouse, parent, child, grandparent, grandchild, sibling, niece,
2 nephew, or cousin of the landowner of the commercial farm; or

3 (b) the operator or an employee of the commercial farm.
4

5 2. a. Notwithstanding any law, or any rule or regulation adopted
6 pursuant thereto, to the contrary, a person shall not hold a special
7 occasion event on preserved farmland without first obtaining approval
8 therefor from the grantee pursuant to section 3 of this act, and shall
9 hold the special occasion event in compliance with the requirements of
10 this section and the rules and regulations adopted by the committee
11 pursuant to section 6 of this act.

12 b. The owner or operator of a commercial farm located on
13 preserved farmland that produces agricultural or horticultural products
14 worth \$10,000 or more annually may hold special occasion events on
15 the farm. The special occasion event shall comply with the following
16 requirements:

17 (1) A special occasion event shall have a maximum duration of
18 two consecutive calendar days.

19 (2) A special occasion event shall not interfere with the use of the
20 preserved farmland for agricultural or horticultural production. The
21 special occasion event shall have minimal effects on the occupied area,
22 and shall be designed to protect the agricultural resources of the land
23 and ensure that the land can be readily returned to productive
24 agricultural or horticultural use after the event.

25 (3) A special occasion event that involves the service of alcoholic
26 beverages shall comply with all applicable State and local laws,
27 regulations, resolutions, and ordinances.

28 (4) All applicable State and local laws, regulations, resolutions,
29 and ordinances including, but not limited to, those concerning food
30 safety, litter, noise, solid waste, traffic, and the protection of public
31 health and safety shall apply to the special occasion event and all
32 activities related thereto.

33 (5) A special occasion event shall not cause a significant and direct
34 negative impact to any surrounding properties.

35 (6) No new structures shall be constructed or erected on preserved
36 farmland for the purpose of holding a special occasion event, and
37 improvements to existing structures shall be limited to the minimum
38 required for the protection of public health and safety;

39 (7) No structure constructed fewer than five years prior to the date
40 of an application pursuant to section 3 of this act to hold a special
41 occasion event shall be used for the purpose of holding the special
42 occasion event.

43 (8) No public utilities including water, gas, or sewer lines shall be
44 extended to the preserved farmland for the purpose of holding special
45 occasion events, except that electric service may be extended to
46 preserved farmland for the purpose of holding special occasion events.

47 (9) The occupied area associated with a special occasion event
48 shall be limited to the greater of:

- 1 (a) two and one-half acres, or
2 (b) five percent of the preserved farmland, up to a maximum of
3 five acres.
- 4 (10) Any temporary structures, including an enclosed or open
5 canopy or tent or other portable structure or facility, utilized for a
6 special occasion event shall be erected only for the minimum amount
7 of time reasonably necessary to accommodate the special occasion
8 event.
- 9 (11) Parking at a special occasion event shall be provided through
10 the use of existing parking areas on the farm and curtilage surrounding
11 existing buildings to the extent possible. Additional on-site areas
12 required to provide temporary parking shall comply with the standards
13 for on-farm direct marketing facilities, activities, and events adopted
14 by the committee pursuant to P.L.1983, c.31 (C.4:1C-1 et seq.).
- 15 c. (1) A special occasion event shall be conducted on a Friday,
16 Saturday, Sunday, or federal or State holiday, except that a special
17 occasion event may be conducted on another day with the approval of
18 the committee. The committee may delegate this authority to a
19 grantee.
- 20 (2) No commercial farm shall hold more than one special occasion
21 event per calendar day.
- 22 (3) A commercial farm that produces agricultural or horticultural
23 products worth between \$10,000 and \$100,000 annually may hold up
24 to a maximum of 15 special occasion events per calendar year, of
25 which two may have 250 guests or more in attendance at any time
26 during the event.
- 27 (4) A commercial farm that produces agricultural or horticultural
28 products worth \$100,000 or more annually may hold up to a maximum
29 of 26 special occasion events per calendar year, of which six may have
30 250 guests or more in attendance at any time during the event.
- 31 d. A retail food establishment other than a temporary retail food
32 establishment, as those terms are defined in the State Sanitary Code
33 adopted pursuant to section 7 of P.L.1947, c.177 (C.26:1A-7), shall not
34 operate on a commercial farm in support of a special occasion event.
- 35 e. Notwithstanding any law, or any rule or regulation adopted
36 pursuant thereto, to the contrary, a special occasion event during which
37 fewer than 250 people will be in attendance as guests at any time may
38 be held without a variance or site plan approval.
- 39
- 40 3. a. No person shall hold a special occasion event on preserved
41 farmland pursuant to this act unless the owner or operator of the
42 commercial farm applies to the grantee for approval pursuant to this
43 section; except that if the grantee is the owner of the preserved
44 farmland, the application shall be made to the committee for approval.
45 A grantee whose approval is required for a special occasion event to be
46 held on preserved farmland shall develop an application process by
47 which an owner or operator of a commercial farm located on preserved
48 farmland may apply for approval. The application shall, at a

1 minimum, allow the grantee, or committee, as applicable, to
2 determine:

3 (1) the annual value of agricultural or horticultural products
4 produced by the commercial farm;

5 (2) the number of special occasion events held on the commercial
6 farm during the calendar year;

7 (3) the maximum attendance of the special occasion event;

8 (4) the acreage of the occupied area, as delineated on a map or
9 aerial photograph, to be used for the special occasion event; and

10 (5) whether the farm is in compliance with its farmland
11 preservation deed of easement.

12 b. Upon request of the grantee, or committee, as applicable, the
13 owner or operator of the commercial farm shall provide evidence that
14 a proposed special occasion event on preserved farmland will be in
15 compliance with State and local laws as required in paragraphs (3) and
16 (4) of subsection b. of section 2 of this act. The grantee, or committee,
17 as applicable, may condition its approval upon receipt of evidence
18 from the municipality, county, or applicable State agency that the
19 event will comply with the provisions of paragraphs (3) and (4) of
20 subsection b. of section 2 of this act.

21 c. The grantee, or committee, as applicable, shall approve an
22 application made pursuant to this section upon a finding that the
23 special occasion events on the preserved farmland that are the subject
24 of the application are in compliance with the requirements of this act
25 and any rules and regulations adopted by the committee to implement
26 this act. The grantee shall forward a copy of its approval to the
27 committee and to the board in the county in which the preserved
28 farmland is located.

29 d. An applicant shall annually certify to the grantee or committee,
30 as applicable, in a form and manner to be prescribed by the grantee, or
31 committee, as applicable, information about the special occasion
32 events held in the prior calendar year that were approved pursuant to
33 this section, including, but not limited to, the date, occasion, and
34 approximate number of attendees of each event. The grantee shall
35 forward a copy of the certification to the committee.

36 e. Upon the effective date of this act, and prior to the adoption by
37 the committee of rules and regulations pursuant to section 6 of this act,
38 a grantee, or the committee, as applicable, may accept applications
39 pursuant to this section and approve applications for special occasion
40 events that comply with the provisions of this act. Upon the adoption
41 of rules and regulations pursuant to section 6 of this act, approvals
42 pursuant to this section shall also comply with the rules and
43 regulations adopted by the committee.

44
45 4. a. The committee and the grantee have the right, without
46 advance notice, to inspect a preserved farm that has received approval
47 from the grantee to hold one or more special occasion events, upon
48 presentation of appropriate credentials during normal business hours or

1 during a special occasion event, in order to determine compliance with
2 the provisions of this act.

3 b. The committee or the grantee may, upon reasonable cause,
4 order and specify the scope of an audit of the owner or operator of a
5 commercial farm engaged in conducting special occasion events on
6 preserved farmland for the purpose of determining compliance with
7 this act. The audit shall be conducted by an independent certified
8 public accountant approved by the committee, and the reasonable costs
9 thereof shall be paid by the owner or operator of the commercial farm.
10 The committee may establish a list of independent certified public
11 accountants approved for the purposes of conducting an audit pursuant
12 to this subsection. Copies of the audit shall be submitted to the
13 grantee, the committee, and the owner or operator of the commercial
14 farm.

15 c. An owner or operator of a commercial farm engaged in
16 conducting special occasion events on preserved farmland shall not be
17 subjected to an audit authorized pursuant to this section more than
18 once per year without good cause demonstrated by the grantee or the
19 committee.

20

21 5. a. An owner or operator of a commercial farm who violates
22 the provisions of this act shall be liable to a civil administrative
23 penalty of up to \$2,500 for the first offense, up to \$10,000 for the
24 second offense, or up to \$25,000 for a third and subsequent offense.
25 Each day in which a violation occurs shall be considered a separate
26 offense.

27 b. In addition to the penalties established pursuant to subsection a.
28 of this section:

29 (1) for a second offense, the committee shall suspend the owner or
30 operator of the commercial farm from holding special occasion events
31 for a period of up to six months;

32 (2) for a third offense, the committee shall suspend the owner or
33 operator of the commercial farm from holding special occasion events
34 for a period of six months up to one year; and

35 (3) for a fourth or subsequent offense, the committee shall
36 suspend the owner or operator of the commercial farm from holding
37 special occasion events for a period of at least one year, or may
38 permanently suspend the owner or operator of the commercial farm
39 from holding special occasion events.

40 c. No civil administrative penalty pursuant to subsection a. of this
41 section or penalty established in subsection b. of this section shall be
42 imposed pursuant to this section until after the owner or operator of the
43 commercial farm has been notified of the alleged violation by certified
44 mail or personal service. The notice shall include:

45 (1) a reference to the section of the statute, regulation, order, or
46 condition alleged to have been violated;

47 (2) a concise statement of the facts alleged to constitute a violation;

1 (3) a statement of the amount of the civil administrative penalty
2 that may be imposed and the duration of the suspension that may be
3 imposed, if any; and

4 (4) a statement of the right of the owner or operator to a hearing.

5 The owner or operator served with the notice shall have 20 days
6 after the receipt of the notice to request in writing a hearing before the
7 committee. After the hearing, if the committee finds that a violation
8 has occurred, the committee may issue a final order assessing the
9 amount of the civil administrative penalty set forth in the notice and
10 imposing the suspension, if any. If no hearing is requested, then the
11 notice shall become a final order 20 days after the date upon which the
12 notice was served. Payment of the civil administrative penalty shall be
13 due, and duration of the suspension, if any, shall begin, on the date
14 when a final order is issued or the notice becomes a final order.

15 A civil administrative penalty imposed pursuant to this section
16 may be collected, with costs, in a summary proceeding pursuant to the
17 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et
18 seq.). The Superior Court and the municipal court shall have
19 jurisdiction to enforce the provisions of the "Penalty Enforcement Law
20 of 1999" in connection with this act.

21 d. The committee shall notify, in writing, the board in the county
22 in which the preserved farmland is located and the applicable grantee
23 when it suspends an owner or operator of a commercial farm from
24 holding special occasion events pursuant to subsection b. of this
25 section.

26
27 6. The committee shall adopt, pursuant to the "Administrative
28 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
29 regulations to implement this act, including any rules and
30 regulations necessary to determine compliance with the
31 requirements of section 2 of this act.

32
33 7. a. The committee shall prepare a report annually on the
34 implementation of this act, and shall submit the report to the Governor,
35 and to the Legislature pursuant to section 2 of
36 P.L.1991, c.164 (C.52:14-19.1).

37 b. The report shall include:

38 (1) the number of preserved farms for which approvals to hold
39 special occasion events have been issued by grantees;

40 (2) the frequency, type, and size of special occasion events held;

41 (3) the extent to which municipalities, county agriculture
42 development boards, and qualifying tax exempt nonprofit
43 organizations that hold a development easement on preserved farmland
44 report problems associated with the holding of special occasion events;

45 (4) the number of audits that have been conducted pursuant to
46 section 4 of this act; and

47 (5) an accounting of penalties collected pursuant to section 5 of this
48 act.

1 8. This act shall take effect immediately.

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3

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STATEMENT

5

6 This bill would authorize commercial farms that are located on
7 preserved farmland, and that produce agricultural or horticultural
8 products worth \$10,000 or more annually, to hold special occasion
9 events, subject to certain conditions.

10 The bill would establish various restrictions on the special
11 occasion events. For example, under section 2 of the bill, a special
12 occasion event: (1) may not interfere with the use of the preserved
13 farmland for agricultural or horticultural production; (2) may not
14 cause a significant and direct negative impact to any surrounding
15 properties; (3) must be designed to protect the agricultural resources
16 of the land and ensure that the land can be readily returned to
17 productive agricultural or horticultural use after the event; (4) may
18 not violate any applicable State and local laws, regulations,
19 resolutions, and ordinances including those concerning alcohol,
20 food safety, litter, noise, solid waste, traffic, and the protection of
21 public health and safety; and (5) may not involve the construction
22 of any new structures or water or sewer utilities on the preserved
23 farmland.

24 Under the bill, a farm that produces agricultural or horticultural
25 products worth between \$10,000 and \$100,000 annually may hold
26 up to a maximum of 15 special occasion events per calendar year,
27 of which two may have 250 guests or more in attendance. A farm
28 that produces agricultural or horticultural products worth \$100,000
29 or more annually may hold up to a maximum of 26 special occasion
30 events per calendar year, of which six may have 250 guests or more
31 in attendance.

32 The bill would require the owner or operator of the commercial
33 farm to apply to the grantee of the farm, i.e. the entity to which the
34 development rights of the farm have been transferred, for approval
35 prior to holding a special occasion event. In cases where the
36 grantee is also the owner of the preserved farmland, the owner
37 would apply to the State Agriculture Development Committee
38 (SADC) for approval. The bill directs grantees to develop an
39 application process for this purpose. Furthermore, the bill imposes
40 certain minimum requirements on this application. For example, it
41 requires the application to allow the grantee or the SADC as
42 applicable, to determine the value of agricultural goods produced by
43 the farm, the number of special occasion events already held on the
44 farm that year, and the area of the preserved farmland to be used for
45 the special occasion event. The bill would authorize a grantee or
46 the SADC, as applicable, upon the effective date of the bill, and
47 prior to the adoption by the SADC of rules and regulations pursuant
48 to section 6 of the bill, to accept applications under the bill and

1 approve applications for special occasion events that comply with
2 the provisions of the bill. Upon the adoption of rules and
3 regulations by the SADC under the bill, applications and approvals
4 would also be required to comply with those rules and regulations.

5 The bill would also allow the SADC and the appropriate grantee
6 to inspect a commercial farm that has received approval for a
7 special occasion event, without prior notice, in order to verify that it
8 is in compliance with the bill's provisions. In addition, the bill
9 would allow the SADC or the grantee, upon reasonable cause, to
10 order an audit of a farm to verify that it is in compliance with the
11 bill's provisions.

12 Under the bill, an owner or operator of a commercial farm who
13 violates the bill's provisions would be subject to a civil
14 administrative penalty of up to \$2,500 for the first offense, up to
15 \$10,000 for the second offense, or up to \$25,000 for a third and
16 subsequent offense. In addition, an owner or operator who
17 repeatedly violates the bill's provisions would be prohibited from
18 holding special occasion events on the preserved farm for a period
19 of time that increases along with the number of violations.

20 Finally, the bill would require the SADC to submit an annual
21 report to the Governor and the Legislature that includes the number
22 of special occasion events held that year, the number of audits
23 conducted, the amount of penalties collected, and a description of
24 any problems associated with the holding of special occasion events
25 reported by municipalities, county agriculture development boards,
26 and nonprofit organizations that are grantees. The bill would
27 require the SADC to adopt rules and regulations to implement the
28 provisions of the bill.