



American Hotel & Lodging Association – Testimony on Intro 2049

Committee on Consumer Affairs and Business Licensing

Council Member Andy Cohen, Chair

September 20, 2020

Hello Chair Cohen and Members of the City Council, and thank you for having us here to speak on the realities facing the hotel industry today.

My name is Troy Flanagan and I serve as the Senior Vice President of Government Affairs and Industry Relations for the American Hotel & Lodging Association (AHLA), which represents every segment of the hotel industry including major chains, independent hotels, management companies, REIT's, bed and breakfasts, industry partners and more.

As you likely know, the hotel industry is facing the most extreme crisis that it has ever faced due to the COVID-19 pandemic, and we have grim prospects for a quick recovery. In New York City, hotels continue to face crippling low occupancy and extreme revenue shortfalls due to the pandemic with no relief in sight. While the hotel industry generally employs over 55,000 residents and provides billions in tax revenues, the severe impact on the industry has cut hotel jobs to just 10,000 today in NYC, and with an extremely long-term view for recovery. Unlike many other industries, which will be able to bounce back as businesses open up and temporary executive orders are lifted, experts predict that the hotel industry isn't going to get back to even its 2019 status until 2025 or 2026 at the earliest. This stark reality will lead many to file for bankruptcy and cause the loss of good-paying jobs and a large share of the City's tax revenue permanently.

Hotels want to reopen and are doing everything they can to support their workers in order to welcome business back. With almost no revenue and a disproportionately large property tax burden that hotels are struggling (and often failing) to pay, any additional burdens on hotels right now will have a negative impact on hotels' and hotel workers' prospects for bouncing back from the impact of COVID-19.

We welcome and actively participate in efforts to better support hotel workers, and we are doing everything we can to get the industry past this crisis so that we can once again provide the well-paying hospitality jobs that we know are so crucial to the City's economy and workforce. However, we have concerns that Intro 2049 would have the opposite effect on hotels and hotel workers than was intended, and that the unintended consequences of the bill will create additional burdens and hurdles for hotels at a time when many are already on the brink of bankruptcy.

In particular, we fear that the subchapter on hotel service disruptions would have an intense negative impact on hotels' ability to operate and, beyond that, would actively discourage visitors from coming to New York City and staying in hotels at all. With occupancy rates as low as they are, this is the opposite of what New York City hotels need, and although we know this may not be the intended consequence of this legislation, it would be a detrimental impact nonetheless.



Specifically, we believe that the legislation's definition of a service disruption is overly broad, would place greater administrative burdens on a hotel's employees to continually notify prospective guests, and threaten to impose strict fines on a hotel at a time when many of New York City's hotels are not making enough revenue to sustainably pay for their operating expenses and property taxes. Many of the situations outlined in this subchapter are either out of the control of hotel operators, such as short-notice executive orders affecting hotel operations or amenities, or can be common in urban settings, such as construction noise outside of hotels.

As leaders of the hotel industry in New York City and around the country, we are working hard to ensure that the hotel industry recovers from this crisis, as we know that hotels provide long-term careers and opportunities for upward mobility for communities in the City and across the United States. However, we want to be mindful that any actions taken at this time do not put undue burdens on hotel staff or further lessen a hotel's prospects for long-term recovery and job retention.

We hope that you consider the unintended impacts that this legislation would have on hotels and their ability to recover in the long term. Please do not hesitate to reach out if you have any further questions or would like to discuss in greater detail.

Thank you.

Troy Flanagan
Senior Vice President of Government Affairs and Industry Relations
American Hotel & Lodging Association (AHLA)



To: Committee on Consumer Affairs and Business Licensing

From: Hand in Hand: The Domestic Employers Network Testimony

Testimony in support of Int. 2032-2020 by Tatiana Bejar, NYC Lead Organizer

Hand in Hand: The Domestic Employers Network

September 10th, 2020

Thank you for the opportunity to testify today on behalf of our membership. Hand in Hand: The Domestic Employers Network is a national network of employers of nannies, house cleaners and home attendants, our families and allies. We support domestic employers to improve their employment practices through education, advocacy and organizing. We believe that dignified and respectful working conditions benefit both workers and employers alike.

Hand in Hand is a non-profit organization that organizes domestic employers to advocate for the rights and benefits of domestic workers. Since 2010, we have worked closely with the New York City government agencies and domestic worker-led organizations to fight for public policies and change the cultural norms in the care industry that perpetuate harmful and discriminatory practices against domestic workers.

In 2010 the Domestic Workers Bill of Rights passed in New York State. The law was the first of its kind in the country and provided a legal framework entitling domestic workers to receive minimum wages, paid sick leave, paid overtime, among other benefits. There are around 2.7 million people who hire a domestic worker in New York State, hundreds of thousands are in New York City. Although the Domestic Workers Bill of Rights was a great step forward to advance working conditions, still thousands of domestic workers continue working in the shadows and are exposed to different types of labor abuses and discrimination.

Domestic workers have been some of the hardest hit workers by the pandemic. They are also essential workers, who have continued caring for our families and loved

ones—seniors, people with disabilities and children. Domestic workers are currently only entitled to three paid sick days under the law, and this is woefully inadequate in the midst of the pandemic. Hand in Hand: The Domestic Employers Network strongly supports the update of NYC's Paid Safe and Sick Leave Law to extend 40 hours of paid sick time to our city's domestic workers.

Domestic employers understand that their lives are interdependent with the people that work in their homes and want to do the right thing to create fair and healthy workplaces. Hand in Hand plays a central role in providing guidance on fair employment practices through written resources and webinars to domestic employers. One of our core recommendations is to provide at least one week of paid sick leave. Many employers follow these recommendations because they realize the current three days provided by NYC and NY law isn't nearly enough to create a fair and healthy work environment in their homes.

However, everyday people become domestic employers and it is impossible for us to reach every employer in the city. The government must take action to set standards for workplaces that exist in people's homes. This includes a stronger Paid Sick Leave Law that requires domestic employers to provide the same sick leave protections as every other employer in the city.

Domestic work is one of the fastest growing occupational sectors. More New Yorkers will become employers as the care work industry expands. Expanding paid sick leave will make New York City a better place to work. We strongly urge New York City Council to update the current Paid Sick Leave Law and applaud the Council for taking leadership on this issue, and thank the Committee on Consumer Affairs and Business Licensing for hearing our testimony as to why this bill should pass and become effective immediately. Thank you.



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Testimony before the New York City Council Committee on Consumer Affairs and Business

Licensing

In support of Intro 2032-2020

September 10, 2020

Submitted by Sherry Leiwant, Co-President

A Better Balance: The Work and Family Legal Center

My name is Sherry Leiwant. I am the Co-President and Co-Founder of A Better Balance, a legal non-profit that helps working men and women take care of themselves and their families without compromising their economic security. In 2013, we helped draft and negotiate the paid sick days bill that became law in April 2014 giving millions of New Yorkers the right to paid sick time. Following passage of the law we worked on outreach and education, distributing thousands of “know your rights” brochures and fact sheets on the right to sick time, conducted more than a dozen trainings, and provided legal advice to hundreds of callers, representing a score of them in administrative proceedings to secure their rights to paid sick time. More recently we worked with the Governor’s office to secure state-wide paid sick time for all workers in the state of New York. The law we helped pass at the state level in April that will go into effect in October is in some respects stronger than the paid sick time legislation we passed in the



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city in 2013. The purpose of the legislation currently proposed here is to ensure that the city law is consistent with the state law. The state law provides: “Nothing in this section shall be construed to prevent a city with a population of one million or more from enacting and enforcing local laws or ordinances which meet or exceed the standard or requirements for minimum hour and use set forth in this section, as determined by the commissioner.” Therefore, unless the city law is as strong as or stronger than the state law, the city cannot enforce their law. We want to take this occasion to applaud the Department of Consumer Affairs for their commitment to robust enforcement of the paid sick time law, working on behalf of workers who file complaints with the agency as well as engaging in proactive enforcement of the law and outreach and education to inform workers and employers of their rights and obligations under the law. It is imperative that the Department of Consumer Affairs be able to enforce the city’s paid sick time law. To ensure that happens, the City Council must pass Intro 2032-2020 to bring the city law into line with the new state sick time law.

But the need to conform to state law is not the only reason to pass these amendments to the New York City paid sick time law. Some of the changes to the law in Intro 2032-2020 were in the original proposed paid sick time law but needed to be negotiated out due to the hostility of the then Mayor (who vetoed the law) and the then City Council President who worked hard to weaken the bill. In the course of the last 6 years – and particularly in the last 6 months as paid sick time has become even more important to all of us here in the city -- we have learned that

many of these proposed changes are necessary to improve our law and make it even more effective in protecting workers and the city's health. Some of the proposed changes include:

- **Employers of 100 or more workers must provide at least 56 hours of paid sick time.** The current paid sick time law provides for 40 hours of paid sick leave for any employers with 5 or more employees. The state law provides that larger employers (those with 100 or more workers) must provide at least 56 hours. Intro 2032 conforms the city law to the state by requiring employers with 100 or more workers to provide 56 hours of sick leave. (The original proposal for a city sick leave bill required 72 hours for larger employers but that was negotiated down to 40 hours.)
- **Paid sick time for workers of smaller employers with a net income of a million dollars or more.** The city law provides only unpaid sick leave for any worker whose employer has less than 5 workers. The state law provides that even employers with fewer than 5 workers must provide paid sick time if their net profit is a million dollars or more. The proposal conforms the city law to the state law in this respect. (The original city proposal had no business size carve out for paid leave; the current law provides unpaid sick time for those working for smaller employers.)
 - **Immediate use of paid sick time.** The current law includes a 120 day waiting period before workers can use their accrued paid sick time. As we



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have learned in the current crisis, if someone is sick, they need to be able to take time off and protect themselves and their fellow New Yorkers from the spread of disease. The state law contains no waiting period for use of paid sick time and this proposal conforms to the state law so that workers can take sick time even if recently hired.

- **Treatment of domestic workers.** Inclusion of domestic workers in the original paid sick time law was a serious fight. The compromise inclusion gave domestic workers fewer days of sick time than other workers and had them wait a year before gaining any sick time. Revisions contained in the current proposal give domestic workers the same number of paid sick days as other workers, counting the state domestic worker “days of rest” as sick days only if they are given for sick time.

- **Notice to workers of their accrued sick time.** We have found that workers often do not know how much sick time they have and therefore are unable to know whether they are being given proper access to that time. The state law requires that workers be told about their sick leave accruals; the proposed city law is even better requiring that workers be told of their paid sick days balance on a pay stub or other documentation each pay period.



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We are delighted with the amendments to the New York City paid sick time law which are well drafted and bring the city into compliance with state law. We have two suggestions for technical amendments.

The first is an amendment to the definition of “domestic worker.” That definition states: The term “domestic worker” does not include any person who is employed by an agency whenever such person provides services as an employee of such agency, regardless of whether such person is jointly employed by an individual or private household in the provision of such services. Because there are domestic workers who work for agencies, the import of this provision is that domestic workers who work for agencies are not covered by the paid sick time law, which of course, is not intended by these amendments. We would suggest striking that sentence and instead adding a sentence that says: “Any person employed by an agency who performs domestic work is included in the definition of employee and both the agency and *the individual hire or private household employer* are responsible for ensuring the domestic worker receives sick time as provided under this chapter.” Alternatively, the exception for domestic workers employed by agencies could just be deleted and those workers could be treated as other domestic workers for purposes of this law. What is most important is assuring that domestic workers performing work through an agency are covered by this law and their employers treated as joint employers jointly responsible for ensuring workers receive paid sick time. And in either case, a definition of agency for these purposes would be helpful.



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Second, the amendments give the corporation counsel the authority to bring a lawsuit to enforce the provisions of the statute. That is a good thing but the section provides at § 20-924.1 (3) that : Such action may be commenced only by the corporation counsel or such other persons designated by the corporation counsel. Because we expect that workers will be able to bring private civil actions under the state paid sick days law, we ask that (3) be removed from the amendments as it could be seen as barring such actions.

Thank you for the opportunity to submit testimony and for your consideration of these excellent amendments to New York City's paid sick time law that greatly improves the law and will enable the city to continue to enforce this law that has helped so many working New Yorkers.