Committee on Consumer Affairs and Business Licensing

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###### **THE COUNCIL OF THE CITY OF NEW YORK**

**Committee Report of the Governmental Affairs Division**

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**COMMITTEE ON CONSUMER AFFAIRS AND BUSINESS LICENSING**

**Hon. Diana Ayala, Chair**

##### November 10, 2021

**INT. NO. 2318-A:** By Council Members Ayala, Brannan, Moya, Chin, Gibson, Kallos, Rosenthal, Salamanca Jr., Miller, Lander, Menchaca, Rivera, Powers, Riley, Dinowitz, Levine, Koslowitz, Reynoso, Adams, Holden, Levin, Feliz, Cumbo, Louis, Ampry-Samuel, Cornegy Jr., Brooks-Powers, Vallone, Dromm and Van Bramer

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the licensing of construction labor providers

**INT. NO. 2410-A:** By Council Members Brooks-Powers, Yeger and Kallos (by request of the Mayor)

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to agency actions and licensee disclosures in the event of a breach of security

1. **INTRODUCTION**

On November 10, 2021, the Committee on Consumer Affairs and Business Licensing, chaired by Council Member Diana Ayala, held a vote on two pieces of legislation: (1) Proposed Introduction Number 2410-A (Int. 2410-A), in relation to agency actions and licensee disclosures in the event of a breach of security; and (2) Proposed Introduction Number 2318-A (Int. 2138-A), in relation to the licensing of construction labor providers. The Committee previously heard testimony from representatives of the Department of Consumer and Worker Protection (DCWP) and NYC Cyber Command, advocates, nonprofit organizations, Chambers of Commerce, unions, and labor placement businesses. At the vote on November 10, the Committee voted 8 in favor, 0 opposed and 0 abstentions on the bill.

1. **BACKGROUND**
2. **Data Security**

In June 2021, the City’s Law Department was hacked. As one of the largest law offices in the country, the hack exposed a trove of sensitive case material and personal information.[[1]](#footnote-1) Aside from exposing this confidential information, the hack also resulted in the whole Law Department network taken offline, which delayed some cases even a month after the hack was first detected.[[2]](#footnote-2) Shortly after the hack was detected, the Law Department’s computer system was taken offline, and attorneys could not log into their computers or access electronic versions of their files.[[3]](#footnote-3) The *New York Daily News* quoted one Law Department staffer as saying that, because of the hack, “There is no work that can be done at all.”[[4]](#footnote-4)

It was ultimately determined that the hack was made possible when the hacker used a Law Department employee’s stolen email password to gain access.[[5]](#footnote-5) According to news reports, despite a City policy to require multifactor authentication, which was created two years before the hack, the Law Department had not implemented the safety measure and thus the hacker gained entry into the system relatively easily.[[6]](#footnote-6) Mayor de Blasio assured reporters that “no information was compromised”;[[7]](#footnote-7) however the impact of the hack was ongoing. Electronic access to work product remained stifled for weeks, and with many staffers working from home due to COVID-19 restrictions, this meant that attorneys could not access their case files, which delayed numerous cases.[[8]](#footnote-8)

Data breaches have become ever more frequent, and it is vital to notify individuals whose data has been impacted. In July 2019, the New York State SHIELD Act, was signed into law substantially amending the data breach notification laws for both private and public entities (which amended Section 39-F of the State General Business Law and Section 208 of the State Technology Law). State Technology Law Section 208 (10) requires that the City have a data breach notification policy or local law that is consistent with the State law. Int. 2410-A seeks to ensure that the City’s local data breach notification law is consistent with State law and provides better protection from hacks.

1. **Labor Placement in Construction and Other Industries**

Labor placement businesses, such as employment agencies and temporary employment agencies, connect job-seekers with work opportunities. These agencies can take many forms. One of the most common types is referred to as an “employment agency,” which connect people to jobs for a fee and are licensed by New York State.[[9]](#footnote-9) This type of agency does not serve as an employer, but helps individuals find employment with other entities.[[10]](#footnote-10)

Another type of employment agency is a temporary employment agency, often called a “temp agency” or “staffing agency”; it serves as the employer for the jobseeker and makes these employees available to businesses through short-term contracts, or indefinite temporary positions.[[11]](#footnote-11)

Temp agencies have expanded in recent years in the United States, and a certain type of worker provision service known as “labor brokers” or “labor contractors” has become more common.[[12]](#footnote-12) Labor brokers, which are common in the construction industry, typically employ workers and assume many of the employment-related responsibilities, like a temp agency, but target unskilled workers for the provision of manual labor. As with temp agencies, the workers are hired to provide labor to other entities.[[13]](#footnote-13) The company that contracts for the use of the laborers will pay the labor broker for the performance of some or the entire project.[[14]](#footnote-14) Temp agencies using the labor broker model have also become common in the timber processing, garment manufacturing, poultry processing, agriculture, janitorial industries, and other industries utilizing day laborers.[[15]](#footnote-15)

Labor brokers in the construction industry are sometimes referred to as “body shops,” and their business model consists of supplying workers to real estate developers. A sample contract between Construction Staffing Solutions LLC (CSS) and their client companies provides an example of this model.[[16]](#footnote-16) The client company “agrees and shall make timely payment to CSS of an agreed hourly rate for each hour worked by each of CSS[’] employees, subject to [a set of] terms. CSS pay[s] all applicable payroll taxes and provide worker's compensation insurance to CSS employees as required by all applicable laws and regulations.”[[17]](#footnote-17) CSS is paid by the client company and, in turn, would pay the wages of their laborers.

The labor broker business model allows for the streamlined production of labor and job placements for otherwise unemployed New Yorkers, but it also compartmentalizes employer responsibilities in a way that can be harmful for workers. Labor brokers like body shops can pay their workers minimum wage and provide scant worker benefits, while assuming very little responsibility for conditions at the worksites to which the workers are assigned. Companies that contract for the use of the body shops’ laborers gain cheap and easy access to labor, without any employer responsibilities and lack knowledge about how the workers are treated outside of the limited bounds of the worksite contract. The Occupational Safety and Health Administration (OSHA) has articulated a number of concerns about the use of subcontracted workers through the a temporary worker model,[[18]](#footnote-18) including: that employers (i.e. the labor brokers/contractors) may use temporary workers as a way to avoid meeting all of their obligations under worker protection laws; that temporary workers are often not given adequate safety and health training by either the temporary staffing agency or the host employer; or that subcontracted workers are more vulnerable to workplace retaliation than are workers directly employed by a company.[[19]](#footnote-19) If any of these worker abuses are in fact the case, the larger client company could claim not to have knowledge of them.

Licensing of Labor Placement Businesses

Employment agencies operating in New York State are licensed under Article 11 of the New York General Business Law, [[20]](#footnote-20) with DCWP licensing those operating in the City pursuant to a grant of authority from the State.[[21]](#footnote-21) While the State employment agency licensing scheme provides government oversight and accountability over the industry, labor brokers like body shops generally are not subject to it. Labor brokers do not charge fees to employees to find them work with other entities, as employment agencies do;[[22]](#footnote-22) labor brokers instead generate profit by being paid for providing the labor of their own employees. Typically, the amount, per hour, paid to the labor broker is much larger than what the broker then pays to its employees.[[23]](#footnote-23) According to the City, temporary employment agencies that contract out their own employees to do work for other businesses do not require an employment agency license.[[24]](#footnote-24)

While the labor broker industry is currently unlicensed, body shops and other labor brokers are still required to comply with various federal, state, and City laws and regulations. Pursuant to the Occupational Safety and Health Act of 1970 (OSH Act), employers are responsible for providing their employees with safe working conditions.[[25]](#footnote-25) Employers are also required to provide safety trainings for employees in a language that workers understand.[[26]](#footnote-26) Labor brokers operating in the City are required to follow State labor laws. NYS labor protections ensure the right of workers to earn a minimum wage, and protect workers from unpaid wages and against retaliation for reporting labor law violations.[[27]](#footnote-27) At the City level, body shops are required to complete Site Safety Plans on all jobs requiring a Construction Superintendent – projects that involve the construction of new buildings.[[28]](#footnote-28) As part of the Site Safety Plan, body shops must ensure that all workers have successfully completed the necessary OSHA trainings on construction industry safety and health.[[29]](#footnote-29) Local Law 196 of 2017 mandated that workers on all construction sites that have Site Safety Plans complete a minimum of 40 hours of training by September 1, 2020.[[30]](#footnote-30)

Exploitation of Vulnerable Groups

Unlike employment agencies, which are licensed by the City, there is very little oversight of labor brokers like body shops. This creates an environment ripe for exploitation, and unions and advocacy groups have been sounding the alarm for years about vulnerable populations taken advantage of by unscrupulous labor brokers. Justice-affected workers, whether recently released from prison, on parole, or with a criminal record, are a population that body shops and other labor brokers may seek for the provision of unskilled labor for low wages. Justice-affected workers often have a trying time finding steady work and, if paroled, may require employment as a condition of their parole.[[31]](#footnote-31) Around 35,000 New Yorkers are under parole supervision on any day,[[32]](#footnote-32) and New York State re-incarcerates more New Yorkers on parole[[33]](#footnote-33) or technical rule violations[[34]](#footnote-34) than any other state in the United States.[[35]](#footnote-35) Violating parole rules can lead a paroled New Yorker to be held in jail for several months with no right to bail.[[36]](#footnote-36) In NYC, Black and Latinx residents on parole are 12 and four times more likely, respectively, to be re-incarcerated for technical violations than white residents on parole.[[37]](#footnote-37) The ability for a paroled resident to reject an unsafe or low paid job is therefore undercut by the threat of re-incarceration. This makes them particularly vulnerable to job opportunities that, while keeping them employed, only offer minimal pay, few benefits and poor working conditions. According to researchers, unions and advocates, New York City’s multi-billion-dollar real estate development industry relies on the exploited labor of formerly incarcerated individuals to such an extent that,[[38]](#footnote-38) practices akin to what is known as “convict leasing”[[39]](#footnote-39) or “resentencing” in terms of labor, seem likely.[[40]](#footnote-40) Body shops are often the brokers providing this labor.

While labor brokers in the construction industry target justice-affected workers, immigrants, undocumented residents, and guest workers are also highly vulnerable to exploitation by labor brokers. Lacking documentation, as well as enduring language and cultural barriers and a highly competitive labor market, makes immigrants and undocumented residents a plum option for labor brokers.[[41]](#footnote-41) Labor brokers have also begun engaging the rapidly-expanding technology industry that makes use of temporary H-1B visas.[[42]](#footnote-42) According to an in-depth investigation by The Center for Investigative Reporting, between 2000 and 2013 nearly $30 million was illegally withheld from 4,400 tech workers, brought to the country on H-1B visas.[[43]](#footnote-43)

Although the exploitation of workers by unscrupulous labor brokers cuts across industries and salary brackets, it is predominately people of color who are most negatively impacted. In New York, Black people are the most overrepresented racial and ethnic group in the carceral system, with an incarceration rate per percent of the population at 7.5 times that of White New Yorkers.[[44]](#footnote-44) Hispanic, Native American and Alaskan Natives are also overrepresented and have rates higher than White New Yorkers.[[45]](#footnote-45) Considering immigrants and undocumented residents among this group of exploited laborers, it is clear that abuse by labor brokers goes beyond a worker-rights issue, but potentially presents a race and equity issue. On the international stage, unscrupulous labor brokers are also seen as key players in perpetuating human trafficking.[[46]](#footnote-46) Two justice-affected New Yorkers, Danny Coley and John Simmons, published an op-ed detailing the abuse they experienced working at a body shop: “Body shops use our incarceration histories and parole status to coerce us into dangerous jobs on nonunion construction sites that often condemn us to poverty.” They further stated, the body shop industry is “a system of racial exploitation with a long history of profiting from Black and brown workers. You might not see our chains when you pass a nonunion construction site, but believe us when we tell you they are there.”[[47]](#footnote-47)

Poor Pay and Conditions

Race can be built into the labor broker payment system. Some workers, employed by body shops in New York, report being segregated from their fellow employees based on race. For example, according to several Black workers employed by a body shop called Trade Off, they were employed by the body shop operating under that name; however, Trade Off established a second labor brokerage company, called Trade Off Plus. The workers at Trade Off, who were predominately Black, were paid $15 per hour, while their colleagues at Trade Off Plus were paid $20 per hour.[[48]](#footnote-48)

Underpayment is a common occurrence for those employed by labor brokers. Advocates argue that the whole labor middleman system relies on this gap. As alleged by the National Employment Law Project (NELP), labor brokers “compete for business with low bids that depend on driving labor costs lower and worker productivity higher. Many contractors [labor brokers] do not earn enough money to pay business expenses, take a profit and comply with minimum wage, overtime, workers’ compensation premiums, unemployment compensation, Social Security deductions, and other basic standards. Often the contractor [labor broker] ekes out a profit and ignores its other financial obligations. The larger business benefits by keeping labor costs low at the expense of workers.”[[49]](#footnote-49)

The larger contracting companies that pay for labor through brokers will pay the broker significantly more, per hour, than the broker pays the actual worker. At times, the contracting company relies on this salary gap as it works out more cost effective for them in the end, with some research estimating that labor brokers can provide contractors with a savings of about 30 percent.[[50]](#footnote-50) For example, in New York City, workers employed through the labor brokering process report an hourly rate of around $15.[[51]](#footnote-51) This is despite the fact that the contracting company is paying the labor broker around $40 an hour for supplying the labor.[[52]](#footnote-52) For the contracting company, this is still a good and profitable deal because, had they used union workers, for example, they could be on the hook for close to $70 per hour, plus benefits.[[53]](#footnote-53)

Justice-affected New Yorkers working in body shops must therefore live on low wages, as the body shop system is predicated on charging contractors less money than companies employing union workers. According to Danny Coley and John Simmons, “When the best or only option for New Yorkers of color after incarceration is a low-wage job on a dangerous construction site, they are still imprisoned economically.”[[54]](#footnote-54) Numerous New Yorkers formerly employed in body shops testified at the Committee on Consumer Affairs and Business Licensing oversight hearing on “Employment agencies and other labor placement businesses” about the impact of these low wages. Tierra Williams, who performed construction work for the body shop Trade Off, testified that she was paid a poverty wage while employed there, requiring her to rely on public assistance benefits.[[55]](#footnote-55) Kareem Marcus testified that he was unable to survive working 40-hour work weeks at a body shop, so he started: “…working 7 days a week, 10 hour shifts, just to make a living. I couldn't even take my kids to the park in the summer time.”[[56]](#footnote-56) In addition to huge pay disparities, workers employed by labor brokers also report a lack of benefits, safety equipment and/or training, and poor working conditions.[[57]](#footnote-57) In New York City, for example, a number of cleaners employed by a company called LN Pro Services, who won a contract with the MTA, reported that they were not given adequate protective equipment when they were hired to clean the City’s subway cars throughout the COVID-19 pandemic.[[58]](#footnote-58) These workers, many of whom were immigrants or undocumented, also reported that they were given dirty cleaning supplies and paid under the promised $20 per hour amount.[[59]](#footnote-59)

In the City’s construction industry, stories abound about unsafe working conditions, lack of protective equipment, poor pay and little safety trainings for those employed through labor brokers.[[60]](#footnote-60) In 2017, a worker by the name of Juan Chonillo was killed when he fell from a construction site platform, after it had been unhooked, in contravention of the Building Code.[[61]](#footnote-61) The construction company overseeing this worksite has often used labor procured by labor broker Salvador Almonte, who has been indicted on insurance fraud, which he perpetrated to avoid paying workers’ compensation.[[62]](#footnote-62) According to the Manhattan District Attorney, more than a dozen of the workers employed by Almonte had been injured while at work; however, they had to wait months and even years to access their compensation, due to stall tactics used by Almonte.[[63]](#footnote-63) Female employees of labor brokers have raised awareness about the additional issue of sexual harassment. Labor broker Trade Off has been accused for years of poor labor practices and exploitation of its workers, who were mostly comprised of formerly incarcerated people.[[64]](#footnote-64) In July 2020, the company settled a sexual harassment suit with the New York Attorney General (AG) after the AG’s investigation substantiated claims of severe sexual harassment and retaliation against 18 women, a majority of whom were women of color.[[65]](#footnote-65) The complainants alleged “that supervisors offered to put extra hours on at least five women’s timesheets in exchange for sex; that at least one supervisor regularly tried to grope women, and at least two texted them photos of their penises.”[[66]](#footnote-66) Furthermore, the investigation found that leadership at Trade Off intervened to protect the accused, and retaliated against at least 12 women, who were fired after making complaints.[[67]](#footnote-67) Trade Off was one of the body shops who was contracted to supply labor to the development of Hudson Yards, the most expensive real estate development in the Country’s history.[[68]](#footnote-68) One of the women in this case who Trade Off fired, had experienced sexual harassment by a foreman at the Hudson Yards development.[[69]](#footnote-69)

Lack of Accountability

Although criminal and civil cases against unscrupulous labor brokers can be pursued, finding adequate restitution for exploited workers is still incredibly difficult. According to research by NELP, “[w]orkers frequently cannot even locate their contractors [labor brokers] to serve them with a summons for a lawsuit”.[[70]](#footnote-70) Furthermore, penalties can be paltry and such cases do little to deter or prevent exploitation.[[71]](#footnote-71) Even in jurisdictions where licensing and regulations exist, labor brokers have been known to dissolve and re-establish their business under a new operating name or under the name of a family member.[[72]](#footnote-72) Declaring bankruptcy is another way for labor brokers to avoid accountability or pay restitution.[[73]](#footnote-73)

Furthermore, the role of the multi-billion dollar contracting companies may perpetuate both the system of exploitation and the avoidance of accountability. According to NELP, the larger contracting company is typically aware of the poor pay and working conditions of the brokered workers, employed by the labor broker. Furthermore, this distance from the traditional employer/employee relationship may allow a contracting company “to avoid minimum wage, overtime, and other legal responsibilities applicable to ‘employers’, by characterizing the subcontractor [labor broker] as the sole employer.’”[[74]](#footnote-74)

1. **LEGISLATIVE ANALYSES**
2. **Int. 2410-A**

This bill would ensure that the City’s local data breach notification law is consistent with State law by making several changes to align certain Administrative Code provisions more closely with Section 208 of the State Technology Law.

Section 1 of this bill would amend Section 10-501 of the Administrative Code to make the definitions for the City’s data breach notification law more closely align with the definitions used in the New York State data breach notification law (State Technology Law Section 208).

Section 2 of this bill would make multiple amendments to Section 10-502 of the Administrative Code. Section 10-502 (a) currently requires a City agency that has suffered a security breach involving personal identifying information to immediately disclose that fact to the Police Department. This bill would alter that responsibility such that a City agency that has suffered a breach of security involving private information would be obligated to promptly disclose that fact to the City’s Chief Privacy Officer, the Office of Cyber Command, and the Department of Information Technology and Telecommunications (DoITT). This bill would additionally expand such obligation to situations not just where private information was reasonably believed to have been acquired, but also to situations when it is reasonably believed to have been accessed, disclosed or used by an unauthorized person.

Section 10-502 (b) currently contains an obligation to notify individuals whose personal identifying information was reasonably believed to have been acquired by an unauthorized person. This bill would amend this subdivision so that the notification obligation would be expanded to situations where an individual’s private information is reasonably believed to have been accessed, acquired, disclosed, or used by an unauthorized person. This bill would make another such edit to Section 10-502 (c), expanding the notification obligation for incidents involving private information that the City maintains, but does not own, lease or license, such that the City would notify the owner, lessor or licensor of the data if the private information was accessed, acquired, disclosed or used by an unauthorized person.

Section 2 of this bill would make technical amendments to Section 10-502 (d) of the Administrative Code, and add details to that subdivision about data breach notifications communicated electronically or via telephone. This bill would make technical amendments to Section 10-502 (e) plus add five new subdivisions to Section 10-502. Subdivision f would mandate that if five thousand or more New York residents are to be notified at one time pursuant to Section 10-502, the notifying agency shall also notify consumer reporting agencies as to the timing, content and distribution of the notices, and approximate number of affected individuals. Subdivision g would provide an exception so that notice to affected individuals is not required if the exposure of private information was an inadvertent disclosure by persons authorized to access private information, and the agency reasonably determines that such exposure will not likely result in misuse of such information, or financial, personal or reputational harm to the affected individuals.

Subdivision h would provide an exception so that if a data breach notification were made by another entity pursuant to New York State law, an agency need not send a duplicate data notification to the affected individuals. Subdivision i would mandate that the Office of Cyber Command, in consultation with the Chief Privacy Officer and DoITT, create protocols for agency coordination and recordkeeping for any breach of security and any incident that is not a breach of security but involves the good faith or inadvertent access, acquisition, disclosure, or use of any private information by an employee or agent of an agency for the legitimate purposes of the agency. Subdivision j would reinforce that any incident that triggers agency action pursuant to Section 10-502 may also trigger agency responsibilities pursuant to the City’s Identifying Information Law.

Section 3 of this bill would make a technical amendment to Section 10-503 of the Administrative Code. Section 4 of this bill would add a new Section 20-117, which would mandate that any DCWP licensee who is required to make a data breach notification pursuant to State law shall promptly submit a copy of such notification to the Department. Section 5 of this bill would require the same of Department of Health and Mental Hygiene licensees, and Section 6 of this bill would require the same of Taxi & Limousine Commission licensees.

Section 7 of this bill provides that this bill would take effect 120 days after it becomes law.

1. **Int. 2318-A**

This bill would make it unlawful for any person to engage in business as a “construction labor provider,” a term that would include body shops, without a license from DCWP. A “construction labor provider” means “a person who employs and supplies a covered construction worker to a third party client for the performance of construction work or manual labor for a construction project of such client on a site within the city, in exchange for compensation from such third party client, provided that the completion of such project is directed by such client or such client’s contractor and not such person,” with some exclusions (Section 20-564). “Construction” has the same meaning as Section 3302.1 of the NYC Building Code and excludes “minor alterations and ordinary repairs,” as defined by Section 28-105.4.2.1; this definition is intended to exclude minimal home improvement work, so that if a business otherwise falls within the scope of the bill, but employs and supplies workers for the performance of smaller home improvement jobs rather than what is defined in Section 3302.1 of the Building Code as “construction” work, that business would not be subject to the requirements of this bill. “Manual labor” has the same meaning as the term “manual worker” in Section 190 of the N.Y. Labor Law, which the State considers to be any “a mechanic, workingman or laborer” engaging in physical labor for at least 25% of their working time. This definition is intended to apply broadly to the employing and supplying of workers not only to perform “construction” work, but also to tasks that may be characterized as manual labor, such as clearing debris from a construction site. However, the term “construction labor provider” does not mean: an employment agency or employee fee paid employment agency, which are already subject to licensing requirements or are otherwise regulated by provisions set forth in Article 11 of the N.Y. General Business Law; a professional employer organization, which is subject to a registration requirement by Article 31 of the N.Y. Labor Law; a bona fide “construction subcontractor”, as defined in the bill; or a general contractor, which is defined in Section 28-401.3 of the Administrative Code.

The bill would require the construction labor providers’ license term to be no more than two years, with an expiration date set by DCWP, and the application fee would be $200. When applying for a license, construction labor providers would be required by this bill to provide certain information about their businesses, including signed statements and data about their workers and clients. Signed statements would be required to certify compliance with certain legal requirements imposed by the bill and other laws, rules and regulations; and the possession of certain insurance policies. Upon license renewal, the construction labor providers would be required to submit information about their covered construction workers and the wages and benefits offered to them, and to identify the clients to which they supplied their covered workers. Section 2 of the bill also requires providers operating as of the enactment date of the bill to submit this information about their workers and clients as part of their initial license application, except that the information would cover the period from the enactment date to the date of application instead of the “preceding license term”.

DCWP may deny, refuse to renew, suspend or revoke the construction provider’s license, under certain conditions. This includes:

* Failure to satisfy fines or civil penalties associated with a violation of the bill’s subchapter;
* Failure to answer a summons, notice of violation, request for records or subpoena, appear for a hearing or provide truthful information or documentation to DCWP in connection with license applications or information;
* Committing two or more violations, of the bill’s subchapter or Chapters 1 (License Enforcement) or 5 (Unfair Trade Practices) of Title 20;
* In the last two years, liability for egregious or repeated nonpayment or underpayment of wages or other illegal acts or omissions bearing a direct relationship to the fitness of the applicant to conduct business as a construction labor provider; and
* Submitting for inspection those records required by Section 20-564.4.

The bill would require construction labor providers to notify their covered workers about many important aspects of the job. The first is a “Notice of rights” (Section 20-564.2 (a)). The construction labor providers would be required to provide this notice in writing, in English and in the workers’ primary language, at the time of hiring. The notice would contain information on various worker protections applicable to such workers, so that the workers are aware of rights available to them under the law. Second, construction labor providers would be required to provide their workers a written “Certification notice,” including any legally required certifications, trainings or other designations that the worker must attain as a condition of hire, or to perform any tasks performed by other workers hired for similar roles or which the provider should reasonably anticipate the worker would need if employed with the provider for at least one year. The notice must include the expected costs and whether the cost would be covered by the provider or the worker. Notice would be provided before the worker agrees to work for the construction labor provider and anytime the requirements in the notice change, without undue delay (Section 20-564.2 (b)). Third, the construction labor provider would be required to provide covered workers with a “Notice of assignment” in writing, containing details on their next assignment. This notice would have to be provided to the worker at least 24 hours prior to the requested time of the worker’s dispatch. If the client offers the opportunity less than 24 hours prior to the requested time of dispatch, however, the provider must provide it within 72 hours, but if, in that case, the assignment is completed within 72 hours, the provider is not required to provide the notice at all. Additionally, the provider would be required to update the worker in writing within 24 hours each time information on the notice changes. The bill would require the construction labor provider to provide a copy of the Notice of rights and the Notice of assignment to their clients and the owner of the property where their workers would be assigned, no later than seven days after the covered worker was dispatched, and anytime upon request. The third party client must provide written confirmation that they have received this information.

The construction labor provider must make additional notifications if DCWP denies, suspends or revokes their license. The provider would be required to notify its covered workers and clients with whom there is an agreement to work within 24 hours of such action being taken against their license. Similarly, the provider must notify their covered workers and clients of all final violations or penalties issued by OATH for violation of the bill’s subchapter, within 90 days of their issuance.

Section 20-564.3 requires the construction labor provider to keep certain records on file for three years: signed statements from their covered workers indicating they read and understood the notices received pursuant to Section 20-564.2; any record necessary to verify the information reported pursuant to Sections 220-564.1 and 20-564.2; and any other records required by DCWP. If requested by DCWP, and in certain circumstances, records would have to be provided electronically.

The construction labor providers’ clients would also have to comply with provisions in this bill. Section 20-564.4 prohibits these clients from accepting the services of unlicensed construction labor providers if a license would be required to perform those services. However, if any information provided by the construction labor provider or DCWP turns out to inaccurately represent the provider as licensed, the client would be held harmless. Violations of this prohibition would subject these clients to civil penalties of up to $500 per day.

Section 20-564.5 provides further enforcement mechanisms. Construction labor providers would be subject to civil penalties of $500 per day for each day during which the provider operates unlicensed in violation of the bill. If the provider fails to communicate the notifications required by Section 20-564.2, the provider would be subject to $250 for a first violation and $500 for each subsequent violation within one year of the first. Any actions or proceedings necessary to correct a violation of the bill’s subchapter are explicitly permitted by the bill, including actions to secure permanent injunctions or enjoining an act or practice. Section 20-564.6 empowers covered workers to commence a private right of action for violations of the bill’s subchapter, and to recover damages for violations of Section 20-564.2. Any person who is a victim of “retaliation,” as the term is defined in Section 20-564, would be entitled to any relief necessary to make them whole, including injunctions and reinstatement. Any person aggrieved either by retaliation or by a violation of Section 20-564.2 would be entitled to special damages in connection with a court action pursuant to this section, including litigation costs and reasonable attorneys’ fees.

Section 1 of the bill would take effect 180 days after becoming law. Section 2 would take effect immediately.

Int. No. 2318-A

By Council Members Ayala, Brannan, Moya, Chin, Gibson, Kallos, Rosenthal, Salamanca, Miller, Lander, Menchaca, Rivera, Powers, Riley, Dinowitz, Levine, Koslowitz, Reynoso, Adams, Holden, Levin, Feliz, Cumbo, Louis, Ampry-Samuel, Cornegy, Brooks-Powers, Vallone, Dromm and Van Bramer

..Title

A Local Law to amend the administrative code of the city of New York, in relation to the licensing of construction labor providers

..Body

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 37 to read as follows:

SUBCHAPTER 37

CONSTRUCTION LABOR PROVIDERS

§ 20-564 Definitions. For purposes of this subchapter, the following terms have the following meanings:

Construction. The term “construction” has the same meaning as defined in section 3302.1 of the New York city building code and does not include minor alterations and ordinary repairs, as defined in section 28-105.4.2.1 of such code.

Construction labor provider. The term "construction labor provider" means a person who employs and supplies a covered construction worker to a third party client for the performance of construction work or manual labor for a construction project of such client on a site in the city, in exchange for compensation from such third party client, provided that the completion of such project is directed by such client or such client’s contractor and not such person. The term “construction labor provider” does not mean:

1. An employment agency or an employee fee paid employment agency, as defined by article 11 of the general business law;

2. A professional employer organization, as defined by article 31 of the labor law;

3. A construction subcontractor that is responsible for and performs all of the following: (i) performing construction work on a project in accordance with a written contract for a defined scope of construction work at a fixed price; (ii) obtaining necessary licenses to perform construction services under the entity’s name; (iii) exclusively controlling the subcontractor’s workers, including having hiring and firing authority and direction of methods and means of construction work performed on the construction project; (iv) paying wages and fringe benefits to workers by the subcontractor and not any other person or entity, and maintaining required employment and payroll records by the subcontractor; (v) purchasing the majority of materials, supplies and tools for construction work performed by the subcontractor on the project; and (vi) maintaining workers’ compensation and unemployment insurance coverage for periods preceding, during and succeeding the term of the construction project for the type and scope of construction work performed by the subcontractor on the project. The commissioner may promulgate rules requiring additional documentation to establish that an applicant is a construction subcontractor; or

4. A general contractor, as defined in section 28-401.3.

Covered construction worker. The term “covered construction worker” means a person who is employed by a construction labor provider to perform construction work or manual labor on a construction site.

Manual labor. The term “manual labor” means the type of physical work the performance of which classifies a natural person as a “manual worker” in accordance with section 190 of the labor law and the rules and regulations adopted thereunder.

Retaliation. The term “retaliation” means any adverse employment action taken or threat to take adverse employment action by a construction labor provider against any person, or any action to directly or indirectly intimidate, threaten, coerce, command or influence or attempt to intimidate, threaten, coerce, command or influence any person because such person has taken an action to enforce, inquire about or inform others about the requirements of this subchapter.

Successor. The term “successor” means a construction labor provider that does or has done two or more of the following:

a. Uses the same facility, facilities or workforce to offer substantially the same services as a predecessor construction labor provider;

b. Shared in the ownership, or otherwise exercised control over, the management of a predecessor construction labor provider;

c. Employs in a managerial capacity any person who controlled the wages, hours, or working conditions of the affected employees of a predecessor construction labor provider; or

d. Is an immediate family member, including a parent, step-parent, child, or step, foster or adopted child, of any owner, partner, officer, or director of a predecessor construction labor provider, or of any person who had a financial interest in the predecessor construction labor provider.

Third party client. The term “third party client" means any person who contracts with a construction labor provider to obtain the services of a covered construction worker for construction work or manual labor at a construction site in the city.

§ 20-564.1 License. a. It shall be unlawful for any person to engage in business as a construction labor provider without first having obtained a license from the department pursuant to this subchapter. Licenses issued pursuant to this subchapter shall be valid for no more than two years and expire on a date the commissioner prescribes by rule. A license to operate as a construction labor provider shall be granted in accordance with the provisions of this subchapter and any rules promulgated by the commissioner thereunder.

b. There shall be a fee of $200 to apply for or renew a license issued under this subchapter.

c. In addition to an applicant's name, address, email address, corporate structure and ownership, the names of each principal and officer, and other information as the commissioner may require, an applicant for a license required by this section or renewal thereof shall furnish the following information:

1. If the applicant is a non-resident of the city, the name and address of a registered agent within the city upon whom process or other notifications may be served.

2. A signed statement certifying:

(a) Compliance with all laws, regulations and rules applicable to doing business as a construction labor provider;

(b) That the applicant has no outstanding final judgments or warrants against the applicant in any action arising out of a violation of this subchapter or any rules promulgated thereunder;

(c) That the applicant maintains a commercial general liability insurance policy in the amount of one million dollars per occurrence and two million dollars in the aggregate; and

(d) That the applicant maintains workers' compensation coverage, unemployment insurance, and disability insurance for covered construction workers employed by such applicant, in compliance with law;

3. For the renewal of such license, the following information on business operations:

(a) The total number of covered construction workers employed during the preceding license term;

(b) The average hourly rate of wage paid to covered construction workers, as of the date of application, disaggregated by workers’ compensation classification code;

(c) Types and hourly value of supplemental benefits paid to covered construction workers, as of the date of application, disaggregated by workers’ compensation classification code;

(d) The name of each third party client during the preceding license term; and

(e) The address of each site where covered construction workers worked during the preceding license term, disaggregated by third party client for whom the work was performed.

d. Denial, renewal, suspension and revocation of license. In addition to any powers of the commissioner and not in limitation thereof, the commissioner may deny or refuse to renew any license required under this subchapter and may suspend or revoke any such license, after due notice and opportunity to be heard, if it is found that:

1. The applicant has failed to satisfy any fine or civil penalty ordered against such applicant in a judicial or administrative proceeding arising out of a violation of this subchapter or chapter one of this title or any rules promulgated thereunder;

2. An entity to which the applicant is a successor has failed to satisfy any fine or civil penalty ordered against such entity in a judicial or administrative proceeding arising out of a violation of this subchapter or chapter one of this title or any rules promulgated thereunder;

3. The applicant failed to answer a summons, notice of violation, request for records, or subpoena, appear for a hearing, or provide truthful information or documentation to the commissioner in connection with the application or other request for information;

4. The applicant or an entity to which the applicant is a successor committed two or more violations of any provision of this subchapter, chapter one of this title, chapter five of title twenty of this code, or any rules promulgated thereunder in the preceding two years;

5. There has been a final determination of liability against the applicant in a civil, criminal or administrative action involving egregious or repeated nonpayment or underpayment of wages or other illegal acts or omissions bearing a direct relationship to the fitness of the applicant to conduct the business; or

6. The applicant failed to submit the records described in section 20-564.4 for inspection by the department.

§ 20-564.2 Employee notices. a. Notice of rights. Every construction labor provider shall provide to each covered construction worker, in English and in the language identified by each covered construction worker as the primary language of such worker, at the time of hiring, a written notice of the rights of covered construction workers prepared and provided by the commissioner. Such notice shall include information on minimum wage, overtime, safe and sick leave, health and safety in the workplace, protections against employment discrimination, unemployment insurance, workers' compensation, and the rights to notices and to be free from retaliation under this subchapter.

b. Certification notice. Every construction labor provider shall provide to each applicant for employment as a covered construction worker a written notice of any legally required certifications, trainings or other designations required to be completed or acquired by a covered construction worker either:

1. As a condition of hire by such construction labor provider; or

2. As a condition of performing any task performed by other workers hired for roles that are substantially similar to the one for which the covered construction worker was hired by such construction labor provider, or that such construction labor provider should otherwise reasonably anticipate such covered construction worker would be asked to perform if employed by such construction labor provider for at least one year.

Such written notice shall be provided: (i) before such covered construction worker is asked to sign any employment contract with such provider or to otherwise agree to work for such provider, and (ii) anytime such requirements change, without undue delay. For any certification, training or other designation included on such notice, the construction labor provider shall disclose the expected cost of acquiring such certification, training or other designation, and whether such cost will be borne by such construction labor provider or such covered construction worker.

c. Notice of assignment. 1. For contracts offered by a third party client more than 24 hours prior to the requested time of dispatch, at least 24 hours prior to dispatching a covered construction worker to a worksite for a third party client a construction labor provider shall provide the covered construction worker with a notice in writing containing the following information in a form and manner approved by the commissioner:

(a) The name and business address of the third party client and any other entity responsible for supervising such covered construction worker’s work during the assignment;

(b) The address of the worksite;

(c) The nature of the work to be performed and the types of equipment and protective clothing required for the assignment;

(d) The anticipated number of hours of work, per week, or if less than a week, by day;

(e) The anticipated duration of the assignment;

(f) The wages offered, including whether prevailing wages would be owed for work performed, and whether supplemental benefits, including but not limited to health insurance, retirement funds and insurance premiums, would be paid for by the construction labor provider, the third party client or another entity;

(g) The name of the party responsible for providing workers’ compensation coverage for such covered construction worker and the insurance policy number covering such covered construction worker; and

(h) Whether a meal or equipment, or both, are provided, either by the construction labor provider or the third party client, and the expected cost to the covered construction worker of the meal and equipment, if any.

2. For contracts offered by a third party client less than 24 hours prior to the requested time of dispatch, a construction labor provider shall provide a notice of assignment to a covered construction worker within 72 hours. Where such assignment is completed prior to 72 hours from the requested time of dispatch, no such notice is required.

3. If any of the information required to be provided by paragraph one of this subdivision changes, such construction labor provider shall update such covered construction worker in writing within 24 hours of such construction labor provider being informed of the change.

d. Every construction labor provider shall provide to the third party client on each project for which covered construction workers have been contracted to work, and the owner of the property where work is being performed, as applicable, a copy of the information required by subdivisions a and c of this section, no later than seven days after the day on which such construction labor provider first dispatched a covered construction worker to a worksite for a third party client. Such construction labor provider shall additionally furnish such information upon such third party client’s request at any time for the duration of the project. The third party client shall provide written acknowledgment of receipt of such information.

e. A construction labor provider shall notify, both by telephone and in writing, each covered construction worker it employs and each third party client with whom it has a contract within 24 hours of any denial, suspension or revocation of its license by the department.

f. A construction labor provider shall notify each covered construction worker it employs and each third party client with whom it has a contract of all final violations or penalties issued against such construction labor provider by the department or the office of administrative trials and hearings for violations of this subchapter, within 90 days of such issuance.

§ 20-564.3 Records. Every construction labor provider shall keep on file in its principal place of business for a period of three years the following records:

a. Statements signed by each covered construction worker, in the language identified by each covered construction worker as their primary language, indicating that the covered construction worker received, read and understood the notices required to be provided to them pursuant to section 20-564.2 of this subchapter;

b. All records necessary to verify the information reported in sections 20-564.1 and 20-564.2 of this subchapter; and

c. Such other records as the commissioner may prescribe by rule.

All records required by this section or by the commissioner by rule shall be made available to the department electronically upon request, consistent with applicable law and in accordance with rules promulgated hereunder and with appropriate notice.

§ 20-564.4 Third party clients. It is unlawful for a third party client to accept the services of a covered construction worker provided by a construction labor provider that is not licensed pursuant to this subchapter, if the provision of such services by such construction labor provider would require such a license. A construction labor provider shall provide each of its third party clients with a copy of their license issued by the department upon such client’s request. If a third party client accepts the services of a construction labor provider who is not licensed but demonstrates the receipt of information from the construction labor provider or the department that inaccurately represents such provider as licensed, such client shall be held harmless. Each violation of this section shall subject a third party client to a civil penalty not to exceed $500. Each day during which a third party client accepts the services of a covered construction worker in violation of this section shall constitute a separate and distinct offense.

§ 20-564.5 Enforcement. a. Any person operating as a construction labor provider without a license issued by the commissioner pursuant to this subchapter shall be liable for a civil penalty of $500 per day for every calendar day during which the unlicensed construction labor provider operated. A construction labor provider that violates section 20-564.2 or any rule promulgated thereunder shall be liable for a civil penalty of $250 for a first violation, and $500 for each subsequent violation within one year of the first violation. Each covered construction worker or third party client for whom the construction labor provider did not provide a notification in accordance with such section shall constitute a separate and distinct offense. Such penalties shall be in addition to any other civil or criminal penalties that may be applicable under any other law, rule or regulation.

b. Any action or proceeding that may be appropriate or necessary for the correction of any violation issued pursuant to this subchapter, including, but not limited to, actions to secure permanent injunctions, enjoining any acts or practices which constitute such violation, mandating compliance with the provisions of this subchapter, seeking civil penalties for violations of this subchapter, or such other relief as may be appropriate, may be initiated in any court of competent jurisdiction by the corporation counsel or such other persons designated by the corporation counsel.

§ 20-564.6 Private right of action. Any covered construction worker who is aggrieved by a violation of this subchapter may commence an action in a court of competent jurisdiction on their own behalf against a construction labor provider. For each violation of section 20-564.2, the covered construction worker may recover damages of $500. If such violation of 20-564.2 was committed with intent or recklessness, the covered construction worker may recover damages of $1,000. Any person who is a victim of retaliation shall be entitled to all relief necessary to make such person whole, including, but not limited to: (i) an injunction to restrain any adverse or retaliatory action; (ii) reinstatement to the position such officer or employee would have had but for such action, or to an equivalent position; and (iii) reinstatement of full benefits and seniority rights including payment of any missed back pay, plus interest. Persons aggrieved by a violation of section 20-564.2 or by retaliation shall be entitled to compensation for any special damages sustained as a result of an action commenced pursuant to this section, including litigation costs and reasonable attorneys' fees; and to relief other than set forth in this section as the court may deem appropriate.

§ 2. Any applicant for a construction labor provider license pursuant to this local law that is engaging in business as a construction labor provider on the date this local law is enacted shall provide the information required in paragraph 3 of subdivision c of section 20-564.1 as part of their initial application for such license. For information that such paragraph requires to be provided with respect to "the preceding licensing term," such construction labor provider shall instead provide such information for the time period from the date this local law is enacted until the date the application for the initial license is submitted.

§ 3. Section 1 of this local law takes effect 180 days after it becomes law. Section 2 of this local law takes effect immediately.

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Int. No. 2410-A

By Council Members Brooks-Powers, Yeger and Kallos (by request of the Mayor)

..Title

A Local Law to amend the administrative code of the city of New York, in relation to agency actions and licensee disclosures in the event of a breach of security

..Body

Be it enacted by the Council as follows:

Section 1. Section 10-501 of the administrative code of the city of New York, as added by local law number 45 for the year 2005, is amended to read as follows:

§ 10-501. Definitions. For the purposes of this chapter,

a. The term [“personal identifying information” shall mean any person's date of birth, social security number, driver's license number, non-driver photo identification card number, financial services account number or code, savings account number or code, checking account number or code, brokerage account number or code, credit card account number or code, debit card number or code, automated teller machine number or code, personal identification number, mother's maiden name, computer system password, electronic signature or unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person. This term shall apply to all such data, notwithstanding the method by which such information is maintained.] “personal information” shall mean any information concerning an individual that because of a name, number, symbol, mark or other identifier, can be used to identify that individual.

b. The term “private information” shall mean either: (i) personal information consisting of any information in combination with any one or more of the following data elements, when either the data element alone or the combination of such information plus the data element is not encrypted, or encrypted with an encryption key that has also been accessed or acquired:

(1) social security number;

(2) driver’s license number or non-driver identification card number;

(3) account number, credit or debit card number, in combination with any required security code, access code, password or other information which would permit access to an individual’s financial account;

(4) account number, or credit or debit card number, if circumstances exist wherein such number could be used to access an individual’s financial account without additional identifying information, security code, access code, or password; or

(5) biometric information, meaning data generated by electronic measurements of an individual’s unique physical characteristics, such as a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry, any of which is collected, retained, converted, stored or shared to identify an individual; or

(ii) a user name or e-mail address in combination with a password or security question and answer that would permit access to an online account.

“Private information” does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

[b.] c. The term “breach of security” shall mean the unauthorized access, acquisition, disclosure or use [by an employee or agent of an agency, or the unauthorized possession by someone other than an employee or agent of an agency, of personal identifying information] of computerized data that compromises the security, confidentiality or integrity of [such] private information maintained by an agency. Good faith or inadvertent [possession of] access, acquisition, disclosure, or use of any [personal identifying] private information by an employee or agent of an agency for the legitimate purposes of the agency, and good faith or legally mandated disclosure of any [personal identifying] private information by an employee or agent of an agency for the legitimate purposes of the agency shall not constitute a breach of security, but in such instances an agency must comply with the protocols issued pursuant to subdivision i of section 10-502.

d. The term "consumer reporting agency" shall mean any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

§ 2. Section 10-502 of the administrative code of the city of New York, as added by local law number 45 for the year 2005, is amended to read as follows:

§ 10-502. Agency disclosure of a [security breach] breach of security. a. Any city agency that owns [or], leases, or licenses data that includes [personal identifying information and any city agency that maintains but does not own data that includes personal identifying] private information[,] shall [immediately] promptly disclose to the [police department] chief privacy officer, office of cyber command and department of information technology and telecommunications any breach of security following discovery by a supervisor or manager, or following notification to a supervisor or manager, of such breach if such [personal identifying] private information was, or is reasonably believed to have been, accessed, acquired, disclosed, or used by an unauthorized person.

b. Subsequent to compliance with the provisions set forth in subdivision a of this section, any city agency that owns [or], leases, or licenses data that includes [personal identifying] private information shall disclose, in accordance with the procedures set forth in [subdivision] subdivisions d, e and f of this section, any breach of security following discovery by a supervisor or manager, or following notification to a supervisor or manager, of such breach to any [person] individual whose [personal identifying] private information was, or is reasonably believed to have been, accessed, acquired, disclosed, or used by an unauthorized person.

c. [Subsequent to compliance with the provisions set forth in subdivision a of this section, any] Any city agency that maintains but does not own, lease, or license data that includes [personal identifying] private information shall disclose[, in accordance with the procedures set forth in subdivision d of this section,] any breach of security following discovery by a supervisor or manager, or following notification to a supervisor or manager, of such breach to the owner, lessor or licensor of the data if the [personal identifying] private information was, or is reasonably believed to have been, accessed, acquired, disclosed, or used by an unauthorized person.

d. The disclosures required by subdivisions b and c of this section shall be made as soon as practicable by a method reasonable under the circumstances[. Provided], provided said method is not inconsistent with the legitimate needs of law enforcement or any other investigative or protective measures necessary to restore the [reasonable] integrity of the data system[, disclosures]. Disclosures required by subdivision b of this section shall be made to each affected individual by at least one of the following means:

1. Written notice [to the individual at his or her last known address]; or

2. [Verbal notification to the individual by telephonic communication] Telephonic notification, provided that a log of each such notification is maintained by the agency that notifies the affected individuals; or

3. Electronic notification [to the individual at his or her last known e-mail address], provided that the affected individual has expressly consented to receiving such notification in electronic form and a log of each such notification is maintained by the agency that notifies affected individuals in such form; provided further, however, that in no case shall any city agency, individual, or business require an individual to consent to accepting notification in such form as a condition of establishing any relationship or engaging in any transaction.

e. Should disclosure pursuant to paragraph one, two or three of subdivision d be impracticable or inappropriate given the circumstances of the breach and the identity of the victim, such disclosure shall be made by a mechanism [of the agency’s election, provided such mechanism] that is reasonably targeted to the individual in a manner that does not further compromise the integrity of the [personal] private information.

f. In the event that five thousand or more New York residents are to be notified at one time pursuant to this section, the agency shall also notify consumer reporting agencies as to the timing, content and distribution of the notices and approximate number of affected individuals. Such notice shall be made without delaying notice to affected New York residents.

g. Notice to affected individuals under this section is not required if the exposure of private information was an inadvertent disclosure by persons authorized to access private information, and the agency reasonably determines, in accordance with the protocols established pursuant to subdivision i of this section, that such exposure will not likely result in misuse of such information, or financial, personal, or reputational harm to the affected individuals. Such a determination must be documented in writing and maintained for at least five years.

h. If notice of a breach of security is made to affected individuals pursuant to any law or rule of the state of New York, or pursuant to a law described in paragraph b of subdivision 2 of section 208 of the state technology law, nothing in this section shall require any additional notice to those affected individuals, but notice still shall be provided pursuant to subdivision a of this section.

i. The office of cyber command, in consultation with the chief privacy officer and the department of information technology and telecommunications, shall issue protocols for agency coordination and recordkeeping for any breach of security and any incident that is not a breach of security but involves the good faith or inadvertent access, acquisition, disclosure, or use of any private information by an employee or agent of an agency for the legitimate purposes of the agency. Such protocols may apply to all agencies or a subset thereof.

j. Notifications made pursuant to this section may overlap with notifications required pursuant to chapter 12 of title 23, including the regulations, policies and protocols issued by the chief privacy officer pursuant to such chapter. Nothing in this section or such chapter shall require duplicate notifications, as long as any notice provided meets any applicable requirements of both this law and such chapter.

§ 3. Section 10-503 of the administrative code of the city of New York, as added by local law number 45 for the year 2005, is amended to read as follows:

§ 10-503 Agency disposal of [personal identifying] private information. An agency that discards records containing any individual’s [personal identifying] private information shall do so in a manner intended to prevent retrieval of the information contained therein or thereon.

§ 4. Chapter 1 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-117 to read as follows:

§ 20-117 Licensee disclosure of breach of security, notification requirements. Any person who is required to be licensed pursuant to chapter two of this title or pursuant to provisions of state law enforced by the department, and who is also required to make a notification pursuant to subdivision 2 or 3 of section 899-aa of the general business law, shall promptly submit a copy of such notification to the department. Such notice shall be made without delaying notice to any individual whose private information was, or is reasonably believed to have been, accessed, acquired, disclosed, or used by an unauthorized person.

§ 5. Subchapter 1 of chapter 3 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-302 to read as follows:

§ 17-302 Licensee disclosure of breach of security, notification requirements. Every recipient of a license issued pursuant to this title who is required to make a notification pursuant to subdivision 2 or 3 of section 899-aa of the general business law shall promptly submit a copy of such notification to the department. Such notice shall be made without delaying notice to any individual whose private information was, or is reasonably believed to have been, acquired by an unauthorized person.

§ 6. Section 19-546 of the administrative code of the city of New York is amended by adding a new subdivision d to read as follows:

d. Every recipient of a license obtained pursuant to this chapter who is required to make a notification pursuant to subdivision 2 or 3 of section 899-aa of the general business law shall promptly submit a copy of such notification to the commission. Such notice shall be made without delaying notice to any individual whose private information was, or is reasonably believed to have been, acquired by an unauthorized person.

§ 7. This local law takes effect 120 days after it becomes law.

1. Michael Gartland, Stephen Rex Brown, Clayton Guse and Shant Shahrigan “Hack of NYC Law Dept. causes problems accessing legal documents, possibly exposed personal employee info”, *NY Daily News*, June 7, available at: <http://www.nydailynews.com/news/politics/new-york-elections-government/ny-nyc-law-department-computer-system-lockout-20210607-oliytonlbvfmfglqblfgygckwi-story.html>. [↑](#footnote-ref-1)
2. Benjamin Weiser “Fallout from hack of City Law Department could linger for months”, *New York Times*, July 9, 2021, available at: <https://www.nytimes.com/2021/07/09/nyregion/nyc-law-department-hacked.html>. [↑](#footnote-ref-2)
3. Michael Gartland, Stephen Rex Brown, Clayton Guse and Shant Shahrigan “Hack of NYC Law Dept. causes problems accessing legal documents, possibly exposed personal employee info”, *NY Daily News*, June 7, available at: <http://www.nydailynews.com/news/politics/new-york-elections-government/ny-nyc-law-department-computer-system-lockout-20210607-oliytonlbvfmfglqblfgygckwi-story.html>. [↑](#footnote-ref-3)
4. Source, as quoted by id. [↑](#footnote-ref-4)
5. Id. [↑](#footnote-ref-5)
6. Ashley Southall, Benjamin Weiser and Dana Rubinstein “This agency’s computers hold secrets. Hackers got in with one password”, *New York Times*, June 18, 2021, available at: <https://www.nytimes.com/2021/06/18/nyregion/nyc-law-department-hack.html>. [↑](#footnote-ref-6)
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8. Benjamin Weiser “Fallout from hack of City Law Department could linger for months”, *New York Times*, July 9, 2021, available at: <https://www.nytimes.com/2021/07/09/nyregion/nyc-law-department-hacked.html>. [↑](#footnote-ref-8)
9. N.Y. Gen. Bus. Law Art. 11. [↑](#footnote-ref-9)
10. *See* N.Y. Gen. Bus. Law Art. 11. [↑](#footnote-ref-10)
11. Ed Grabianowski, “How Temp Agencies Work”, HowStuffWorks, *available at:* <https://money.howstuffworks.com/business/getting-a-job/temp-agencies.htm> [↑](#footnote-ref-11)
12. Catherine Ruckelshaus and Bruce Goldstein, “From Orchards to the Internet: Confronting Contingent Work Abuse”, National Employment Law Project, 2002, *available at:* <https://www.nlg-laboremploy-comm.org/media/documents/nlg-laboremploy-comm.org_24.pdf> [↑](#footnote-ref-12)
13. *Id.* [↑](#footnote-ref-13)
14. *Id.* [↑](#footnote-ref-14)
15. *Id.* [↑](#footnote-ref-15)
16. “CLIENT MASTER AGREEMENT” Construction Staffing Solutions, LLC, *available at:* <http://teamcss.com/wp-content/uploads/2014/11/CSS-Client-Master-Agreement.pdf>. [↑](#footnote-ref-16)
17. *Id.* [↑](#footnote-ref-17)
18. “Protecting Temporary Workers”, Occupational Safety and Health Administration, *available at:* <https://www.osha.gov/temporaryworkers> [↑](#footnote-ref-18)
19. *Id.* [↑](#footnote-ref-19)
20. N.Y. Gen. Bus. Law Art. 11. [↑](#footnote-ref-20)
21. N.Y. Gen. Bus. Law § 189. [↑](#footnote-ref-21)
22. N.Y. Gen. Bus. Law § 171. [↑](#footnote-ref-22)
23. Unpublished research on file with Committee staff; and Mike “Millz” Negron “Opinion: How NYC’s Leaders Can Empower Black Re-Entry Workers Like Me”, *City Limits,* February 12, 2021, *available at*: <https://citylimits.org/2021/02/12/opinion-how-nycs-leaders-can-empower-black-re-entry-workers-like-me/?fbclid=IwAR3KWluAWV9bHJTwcKSuvA65Z9F0WjLU6VhNSP1JF_3IB7WjZ0szUkCKJp0>. [↑](#footnote-ref-23)
24. “Employment Agency License” NYC Business, *available at:* <https://www1.nyc.gov/nycbusiness/description/employment-agency-license> [↑](#footnote-ref-24)
25. “Employer Responsibilities” United States Department of Labor, *available at:* <https://www.osha.gov/as/opa/worker/employer-responsibility.html> [↑](#footnote-ref-25)
26. *Id.* [↑](#footnote-ref-26)
27. “Minimum Wage”, Department of Labor, *available at:* <https://dol.ny.gov/minimum-wage-0>; and “Labor Standards” Department of Labor, *available at:* https://dol.ny.gov/labor-standards-0 [↑](#footnote-ref-27)
28. New York City Construction Code § 28-110.1; and “Construction Superintendent” NYC Buildings, *available at*: <https://www1.nyc.gov/site/buildings/industry/construction-superintendent.page> [↑](#footnote-ref-28)
29. *Id.* [↑](#footnote-ref-29)
30. “Occupational Safety and Health (OSHA) Construction Safety Certification Training” *available at*: <https://www1.nyc.gov/assets/brooklyncb4/downloads/pdf/news/OSHA-Training-Jan-2019.pdf> [↑](#footnote-ref-30)
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