Legislation Details (With Text)

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Title:	A Local Law in relation to temporary space for outdoor non-tobacco hookah operation		
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Indexes:			
Attachments:	1. Summary of Int. No. 2089, 2. Int. No. 2089, 3. September 23, 2020 - Stated Meeting Agenda with Links to Files, 4. Hearing Transcript - Stated Meeting 9-23-20, 5. Minutes of the Stated Meeting - September 23, 2020		

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Int. No. 2089

By Council Members Cabrera, Reynoso, Rodriguez, Gjonaj, Kallos, Rosenthal, Adams and Ulrich

A Local Law in relation to temporary space for outdoor non-tobacco hookah operation

Be it enacted by the Council as follows:

Section 1. Temporary space for outdoor non-tobacco hookah. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Non-tobacco hookah establishment. The term "non-tobacco hookah establishment" has the same meaning as set forth in subdivision aaa of section 17-502 of the administrative code.

Non-tobacco shisha. The term "non-tobacco shisha" means any product that does not contain tobacco or nicotine and is smoked or intended to be smoked in a hookah or water pipe.

Open space. The term "open space" means any location of roadway seating or sidewalk seating, or any other public outdoor location, including but not limited to a sidewalk, roadway, or public parking lot, that may

be used by a non-tobacco hookah establishment for temporary outdoor service and that has been approved for such use by the department of transportation.

Roadway seating. The term “roadway seating” means seating located in the roadway adjacent to the curb in front of the business frontage of a non-tobacco hookah establishment in accordance with guidelines established by the department of transportation.

Sidewalk seating. The term “sidewalk seating” means seating located outside the business frontage of a non-tobacco hookah establishment in accordance with guidelines established by the department of transportation.

b. Outdoor hookah program. 1. The city shall establish an outdoor hookah program pursuant to which non-tobacco hookah establishments may operate a temporary outdoor smoking area in 25 percent of the outdoor dining area of such establishment. Such temporary outdoor smoking area shall be located in an open space and operated under permit from the department of health and mental hygiene.

2. A non-tobacco hookah establishment shall be permitted to operate roadway seating or sidewalk seating after the completion of an online self-certification application, which shall be in a form and manner as determined by the department of transportation. The department of transportation may establish a process to allow for the use of other types of open space as temporary outdoor smoking areas.

3. No individual under 21 years of age shall be permitted to sit at temporary smoking areas during operating hours when non-tobacco shisha is available for consumption or sale. Seating at such outdoor hookah area shall be permitted only to an individual who demonstrates, through a driver’s license or other photographic identification card issued by a government entity or educational institution, that the individual is at least 21 years of age. Such identification need not be required of any individual who reasonably appears to be at least 30 years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the granting of permission to sit at such outdoor hookah area to an individual under 21 years of age.

4. There shall be no fee for participation in such outdoor hookah program.

c. Compliance with other laws. Nothing in this local law shall relieve a non-tobacco hookah establishment from their obligation to adhere to all emergency executive orders issued pursuant to section 24 or 29-a of the executive law, and to all local, state, and federal requirements relating to health and safety, except as modified by any such emergency executive order or this local law. Any non-tobacco hookah establishment participating in the outdoor hookah program shall adhere to all applicable guidance issued by the local and state officials, including the department of transportation, the department of health and mental hygiene, the department of consumer and worker protection and the New York state department of health.

d. Validity of a self-certification. A self-certification submitted pursuant to the outdoor hookah program shall remain valid until terminated or suspended by the department of transportation or the department of health and mental hygiene. The departments may terminate or suspend a self-certification for non-compliance with the requirements of such program or as necessary to protect health and safety.

e. Expiration. The outdoor hookah program shall remain in effect until November 8, 2020 or until such later date as the department of transportation shall determine; provided however that such program shall not remain in effect after December 31, 2020. The department of transportation shall provide the speaker of the council notice five days prior to the termination of such program.

§ 2. This local law takes effect immediately.

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