



Legislation Details (With Text)

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Proposed Int. No. 991-A

By Council Members Menin, Hudson, De La Rosa, Abreu, Feliz, Won, Banks, Schulman, Krishnan, Lee, Gutiérrez, Moya, Brannan, Gennaro, Williams, Ung, Ossé, Zhuang, Joseph, Powers, Sanchez, Bottcher, Avilés, Restler, Dinowitz, Nurse, Mealy, Louis, Ayala, Rivera, Cabán, Hanif, Riley, Salaam and Ariola (in conjunction with the Queens Borough President)

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

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 38 to read as follows:

SUBCHAPTER 38

HOTELS

§ 20-565 Definitions.

§ 20-565.1 Hotel license; application; fee.

§ 20-565.2 Issuance, denial, renewal, suspension and revocation of license.

§ 20-565.3 Display of license; facilities and inspections.

§ 20-565.4 Service requirements and prohibitions.

§ 20-565.7 Direct Employment

§ 20-565.8 Panic buttons.

§ 20-565.9 Chemical injury prevention.

§ 20-565.10 Retaliatory actions by hotels; prohibition.

§ 20-565.11 Penalties.

§ 20-565.12 Rulemaking.

§ 20-565 Definitions. As used in this subchapter, the following terms have the following meanings:

Affected hotel. The term "affected hotel" means a hotel or discrete portion of a hotel that has been the subject of a change in control or a change in controlling interest or identity.

Airport hotel. The term "airport hotel" means a hotel within one mile of either LaGuardia Airport or John F. Kennedy International Airport.

Bona fide third party. The term "bona fide third party" means a business located on hotel premises that:

1. is not affiliated with the hotel except that the business may lease its premises from the hotel;
2. does not enter guest rooms or maintain hotel facilities;
3. does not share common management with the hotel; and
4. does not provide public access to the hotel through its premises.

Change in control. The term "change in control" means any sale, assignment, transfer, contribution or other disposition of all or substantially all of the assets used in the operation of a hotel or a discrete portion of a hotel. A change in control shall be defined to occur on the date of execution of the document effectuating such change.

Change in controlling interest or identity. The term "change in controlling interest or identity" means (i) any sale, assignment, transfer, contribution or other disposition of a controlling interest, including by consolidation, merger or reorganization, of a hotel employer or any person who controls a hotel employer; or (ii) any other event or sequence of events, including a purchase, sale or lease termination of a management contract or lease, that causes the identity of the hotel employer at a hotel to change. A change in controlling interest or identity shall be defined to occur on the date of execution of the document effectuating such change.

Continuous coverage. The term "continuous coverage" means staffing 24 hours a day every day that the

hotel is occupied by a guest.

Core employee. The term “core employee” means any employee whose job classification is related to housekeeping, front desk, front service, or engineering at a hotel. Such classifications include, but are not limited to, room attendants, house persons, bell or door staff, and engineers and maintenance employees. Such classifications shall not include cooks, stewards, bartenders, servers, bussers, barbacks, room service attendants or other employees who primarily work in the food or beverage service operations of the hotel regardless of whether such employees are directly employed by the hotel or by another person.

Eligible hotel service employee. The term "eligible hotel service employee" means a hotel service employee employed by a hotel employer at an affected hotel.

Former hotel employer. The term "former hotel employer" means any hotel employer who owns, controls or operates a hotel prior to a change in control or change in controlling interest or identity of a hotel or of a discrete portion of a hotel that continues to operate as a hotel after such change.

Front desk. The term “front desk” means the physical location in a hotel where guests may check-in or reserve a room.

Guest room. The term “guest room” means a room made available by a hotel for occupancy by guests. A single guest room may be comprised of several interconnected rooms, such as a bathroom, a living room, or multiple bedrooms in the case of suites.

Hotel. The term “hotel” means a transient hotel as defined in section 12-10 of the New York city zoning resolution or any successor provision of such resolution.

Hotel employer. The term "hotel employer" means any person who owns, controls or operates a hotel, and includes any person or contractor who, in a managerial, supervisory or confidential capacity, employs one or more hotel service employees.

Hotel service. The term "hotel service" means work performed in connection with the operation of a hotel.

Hotel service employee. The term "hotel service employee" means (i) any person employed to perform a hotel service at an affected hotel during the 365-day period immediately preceding the change in control or change in controlling interest or identity of such hotel, or (ii) any person formerly employed to perform a hotel service at an affected hotel who retains recall rights under the former hotel employer's collective bargaining agreement, if any, or under any comparable arrangement established by the former hotel employer, on the date of the change in control or change in controlling interest or identity of such hotel. Notwithstanding the preceding sentence, the term "hotel service employee" shall not include persons who are managerial, supervisory or confidential employees or who otherwise exercise control over the management of the hotel.

Hotel service employee retention period. The term "hotel service employee retention period" means the 90-day period beginning on the date of a change in control or change in controlling interest or identity of the hotel or of a discrete portion of the hotel that continues to operate as a hotel after such change, provided that if such hotel is not open to the public on such date, such 90-day period shall begin on the first day that such hotel is open to the public after such change.

Large hotel. The term "large hotel" means a hotel with more than 100 guest rooms.

Occupied. The term "occupied" means that a guest is currently checked-in to the room.

Panic button. The term "panic button" means a help or distress signaling system a person may activate in order to that alert hotel security staff that such person is in danger and which provides the hotel security staff with the location of such person.

Person. The term "person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, trustee in bankruptcy, receiver or other entity that may employ persons or enter into service contracts, but does not include the city of New York, the state of New York, and the federal government or any other governmental entity, or any individual or entity managing real property for a governmental entity.

Room. The term "room" means a room available or let out for use or occupancy in a hotel.

Security guard. The term “security guard” means a person that is licensed by and registered in New York state to work as a security guard under article 7-a of the general business law.

Service disruption. The term “service disruption” means any of the following conditions where such condition substantially affects or is likely to substantially affect any guest's use of a room or utilization of a hotel service:

(i) construction work in or directly related to the hotel that creates excessive noise that is substantially likely to disturb a guest, other than construction that is intended to correct an emergency condition or other condition requiring immediate attention;

(ii) conditions of which the hotel is aware, indicating the presence in the hotel of any infestation by bed bugs, lice or other insects, rodents or other vermin capable of spreading disease or being carried, including on one's person, if such infestation has not been fully treated within 24 hours of identifying it;

(iii) the unavailability, for a period of 48 hours or more, of any advertised hotel amenity, including, but not limited to, a pool, spa, shuttle service, internet access, or food and beverage service;

(iv) the unavailability, for a period of 48 hours or more, of any advertised room appliances or technology, including but not limited to, in-room refrigerators, or internet or Wi-Fi services;

(v) the unavailability of any advertised or legally required accessibility feature, including, but not limited to, an elevator, wheelchair lift, ramp, or accessible bathroom in such room or in any common area of the hotel;

(vi) the unavailability for a period of 24 hours or more, of any utility, including, but not limited to, gas, water or electricity when the unavailability affects only the location of the hotel; or

(vii) any strike, lockout or picketing activity, or other demonstration or event for a calendar day or more at or immediately adjacent to such hotel.

Successor hotel employer. The term "successor hotel employer" means a hotel employer who owns, controls or operates a hotel after a change in control or change in controlling interest or identity of the hotel or

of a discrete portion of the hotel that continues to operate as a hotel after such change.

Third-party vendor. The term “third-party vendor” means a vendor with which a hotel has an arrangement for third-party room reservations, or any other entity that has reserved or entered into an agreement or booking for the use or occupancy of one or more rooms in a hotel in furtherance of the business of reselling such rooms to guests.

§ 20-565.1 Hotel license; application; fee. a. License required. It shall be unlawful for any person to operate a hotel without a valid license as herein prescribed for such hotel. All licenses issued pursuant to this subchapter shall be valid for no more than two years and expire on the date the commissioner prescribes by rule. The fee for such license and the renewal therefor shall be \$200.

§ 20-565.2 Issuance, denial, renewal, suspension and revocation of license. a. A license to operate a hotel shall be granted in accordance with the provisions of this subchapter, chapter 1 of this title, and applicable rules of the commissioner.

b. Such license shall be issued to an applicant that is the hotel owner of the hotel to be licensed or that will be the hotel owner upon grant of the license.

c. A hotel license shall not be assignable and shall be valid only for the person to whom it was issued and for the operation of a hotel in the place designated therein and shall at all times be conspicuously displayed at the place for which it is issued.

d. A licensee who has submitted the application forms and fees required to renew their license pursuant to this subchapter shall be permitted to operate a hotel until they receive a determination from the commissioner. Failure by the commissioner to make a determination prior to the expiration date of an applicant’s license shall not be cause to cease operation of a hotel.

e. Prior to any revocation, the commissioner shall first notify the licensee of an anticipated revocation in writing and afford the licensee thirty days from the date of such notification to correct the condition. The commissioner shall notify the licensee of such thirty-day period in writing. If the licensee proves to the

satisfaction of the commissioner that the condition has been corrected within such thirty-day period, the commissioner shall not revoke such license. The commissioner shall permit such proof to be submitted to the commissioner electronically or in person. The licensee may seek review by the commissioner of the determination that the licensee has not submitted such proof within fifteen days of receiving written notification of such determination.

§ 20-565.3 Display of license; facilities and inspections. a. Each licensee shall conspicuously display a true copy of the license issued pursuant to this subchapter in close proximity to the main entrance door of each licensee's hotel in such a manner that the license is visible from outside the building where such hotel is located.

b. The commissioner may inspect a hotel for violations of this subchapter and rules promulgated pursuant to this subchapter.

§ 20-565.4 Service requirements and prohibitions. a. Front desk staffing. 1. Each hotel must maintain continuous coverage of a front desk.

2. The front desk staff must confirm the identity of each guest upon the guest checking in.

b. Security staffing. 1. Each hotel must maintain safe conditions for guests and hotel workers.

2. Each large hotel must maintain continuous coverage of at least one security guard on premises while any guest room in such hotel is occupied.

c. Guest room cleanliness. 1. Each hotel must maintain the cleanliness of guest rooms, sanitary facilities, and common areas.

2. Every guest room must be provided with clean towels, sheets, and pillowcases prior to occupancy by a new guest.

3. An occupied guest room's towels, sheets, and pillowcases must be replaced daily with clean towels, sheets, and pillowcases upon request by the occupying guest.

4. An occupied guest room must be cleaned and trash must be removed daily.

d. Prohibition against short duration bookings. A hotel, other than an airport hotel, may not book guest rooms for durations less than 4 hours.

e. Prohibition against facilitating illegal prostitution or human trafficking. A hotel may not suffer or permit its premises to be used for the purposes of prostitution or human trafficking.

§ 20-565.7 Direct employment a. Direct employment required for core employees. A hotel owner must directly employ all core employees, except as provided in this section.

b. All core employees must undergo human trafficking recognition training in accordance with section 205 of the general business law. Hotel owners must submit the certificate of training to the department within 90 days of employment.

c. Contracting to any third parties for core employees, including staffing agencies or other contractors or subcontractors, is not permitted except that a hotel owner may retain a single managing agent to manage all hotel operations at a hotel on the hotel owner's behalf.

d. Bona fide third parties. This section shall not apply to bona fide third parties located on the hotel's premises or their employees.

§ 20-565.8 Panic buttons. Hotel employers must provide panic buttons to all employees that enter occupied guest rooms.

§ 20-565.9 Chemical injury prevention. Each hotel employer shall provide all employees with information on hazardous chemicals in their work area at the time of their initial job assignment and whenever a new physical or health hazard related to chemical exposure is introduced into work areas. Such information shall be provided in each language spoken by ten or more employees with limited English proficiency.

§ 20-565.10 Retaliatory actions by hotels; prohibition. a. A hotel employer shall not take any retaliatory action against an employee, whether or not within the scope of the employee's job duties, because such employee does any of the following:

1. discloses, or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of the employer that the employee believes in violation of this chapter or that the employee reasonably believes poses a substantial and specific danger to the public health or safety; or

2. provides information to, or testifies before, any public body conducting an investigation, hearing, or inquiry into any such activity, policy, or practice by such employer; or

3. objects to, or refuses to participate in any such activity, policy, or practice.

b. Any person alleging a violation of the provisions of this section may bring a civil action, in accordance with applicable law, in any court of competent jurisdiction.

c. Such court may order compensatory, injunctive and declaratory relief, and reasonable attorney's fees.



d. A civil action under this section shall be commenced within two years of the date the person knew or should have known of the alleged violation.

e. Any person filing a civil action shall simultaneously serve notice of such action and a copy of the complaint upon the department. Failure to so serve a notice does not adversely affect any person's cause of action.

§ 20-565.11 Penalties. a. A licensee who violates or causes another person to violate a provision of this subchapter or any rule promulgated pursuant to such subchapter, in addition to any other applicable penalties provided in this title, shall be subject to a civil penalty as follows:

1. for the first violation, a civil penalty of \$500;

2. for the second violation issued for the same offense within a period of two years of the date of the first violation, a civil penalty of \$1,000;

3. for the third violation issued for the same offense within a period of two years of the date of the first violation, a civil penalty of \$2,500; and

4. for the fourth and any subsequent violations issued for the same offense within a period of two years of the date of the first violation, a civil penalty of \$5,000.

b. For purposes of this subchapter, there shall be a rebuttable presumption that any violation by a hotel employee, management agency, contractor or other agent affiliated with a hotel, was caused by the hotel licensee.

c. A proceeding to recover any civil penalty pursuant to this section shall be commenced by the service of a summons or notice of violation, which shall be returnable to the office of administrative trials and hearings.

§ 20-565.12 Rulemaking. The commissioner shall promulgate such rules as the commissioner deems necessary to effectuate the provisions of this subchapter.

§ 2. Sections 20-851 and 22-510 are renumbered as sections 20-565.5 and 20-565.6, respectively.

§ 3. This local law takes effect 180 days after it becomes law.