



Legislation Text

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Int. No. 699-A

By Council Members Ung, Menin, Brooks-Powers, Krishnan, Hanif, Hudson, Joseph, Brewer, Sanchez, Louis, Won, Gutiérrez, Velázquez, Narcisse, Brannan, Lee, Avilés, Cabán, Ossé, Mealy and Gennaro

A Local Law to amend the New York city charter and administrative code of the city of New York, in relation to enhancing language access for small business owners, and to repeal a related definition in section 17-1501 of such code

Be it enacted by the Council as follows:

Section 1. Paragraphs 1 and 2 of subdivision f of section 15 of the New York city charter, paragraph 1 as separately amended by local law numbers 65 and 67 for the year 2015 and paragraph 2 as amended by local law number 132 for the year 2013, are amended to read as follows:

1. The office of operations shall develop a business owner's bill of rights. The bill of rights shall be in the form of a written document, drafted in plain language, that advises business owners of their rights as they relate to agency inspections. Such written document shall include translations of the bill of rights into at least the [six] designated citywide languages [most commonly spoken by limited English proficient individuals, as those languages are determined by the department of city planning], as defined in section 23-1101 of the administrative code, or include: (i) a statement in each designated citywide language, as defined in section 23-1101 of the administrative code, that the document advises business owners of their rights as they relate to agency inspections and that translations of the document are available online; (ii) a universal resource locator (url) for a web page, website, document or other resource where such translations are available online; and (iii) a direct means of accessing such translations using a properly equipped mobile device, such as a quick response code or a near field communication tag. The bill of rights shall include, but not be limited to, notice of every business owner's right to: i) consistent enforcement of agency rules; ii) compliment or complain about an

inspector or inspectors online, anonymously, if desired, through a customer service survey, and information sufficient to allow a business owner to do so, including but not limited to the url of such survey; iii) contest a notice of violation before the relevant local tribunal, if any; iv) an inspector who behaves in a professional and courteous manner; v) an inspector who can answer reasonable questions relating to the inspection, or promptly makes an appropriate referral; vi) an inspector with a sound knowledge of the applicable laws, rules and regulations; vii) access information in languages other than English; and viii) request language interpretation services for agency inspections and any subsequent administrative hearings and trials, including pre-trial conferences and settlement negotiations.

2. [To the extent practicable, the] The office of operations shall [develop and implement a plan to distribute] work with each agency that conducts inspections to facilitate the distribution of the bill of rights to all relevant business owners, including via electronic publication on the internet, and to notify such business owners if the bill of rights is subsequently updated or revised. The office of operations shall also [develop and implement a plan] work in cooperation with all relevant agencies to [facilitate] enable the distribution of a physical copy of the bill of rights to business owners [or], managers, or relevant employees at the [time] beginning of [an] every inspection, except that if the inspection is an undercover inspection [or if the business owner or manager is not present at the time of the inspection], if exigent circumstances require an urgent safety inspection, if the inspector has a reasonable fear for their own safety, or if the inspection is not conducted by an individual whose primary duty is to conduct an inspection, then a copy of the bill of rights shall be provided as soon as practicable and may be provided electronically. If the business owner or manager is not present at the time of inspection, the relevant agency shall leave such physical copy at the establishment at the time of inspection and may also provide an electronic copy of the bill of rights. Nothing in this subdivision nor any failure to comply with its provisions shall be construed so as to create a cause of action or constitute a defense in any judicial, administrative, or other proceeding.

§ 2. The definition of “covered languages” in section 17-1501 of the administrative code of the city of

New York is REPEALED.

§ 3. The heading and subdivision b of section 17-1502 of the administrative code of the city of New York, as added by local law number 90 for the year 2013, are amended to read as follows:

§ 17-1502 Food [Service Establishment Inspection Code of Conduct] service establishment inspection code of conduct.

b. The inspection code of conduct shall be in the form of a written document, drafted in plain language. The department shall distribute the inspection code of conduct to all food service establishment inspectors and food service establishments. Food service establishment inspectors shall also distribute the inspection code of conduct to food service establishment owners or operators prior to the beginning of [an initial] each inspection. The department shall make the inspection code of conduct available on the department's website in the [covered languages] designated citywide languages, as defined in section 23-1101.

§ 4. Paragraphs (10) and (11) of subdivision c of section 17-1502 of the administrative code of the city of New York, as added by local law number 90 for the year 2013, are amended to read as follows:

(10) the food service establishment inspector must provide information informing the food service establishment owner or operator how such owner or operator may contest a notice of violation before the relevant local tribunal, including information about the availability of language interpretation services at the relevant tribunal; and

(11) the food service establishment inspector shall provide information on how the food service establishment owner or operator may file a comment, compliment, or complaint about an inspector, including information about filing such comment, compliment, or complaint in a language other than English.

§ 5. Section 17-1505 of the administrative code of the city of New York, as added by local law number 89 for the year 2013, is amended to read as follows:

§ 17-1505[. a.] Food service establishment inspections ombuds office[; office]. a. Office established. There is hereby established within the food safety program of the department a food service establishment

inspections ombuds office.

b. [Food service establishment inspections ombuds office; duties] Duties and responsibilities. The food service establishment inspections ombuds office shall have, but not be limited by, the following duties and responsibilities:

1. establishing a system to receive questions, comments, complaints, and compliments with respect to any food service establishment inspection, including but not limited to, the establishment, operation, and dissemination of a central telephone hotline and website to receive such questions, comments, complaints, and compliments;

2. investigating complaints received pursuant to paragraph one of this subdivision and taking any action it deems appropriate regarding such complaints, including but not limited to, withdrawing violations that concern the physical layout and/or major fixtures within a food service establishment where the department finds that such physical layout or fixture existed at the time of a prior inspection but was not the subject of a violation and the condition has not been altered since the time of such prior inspection, and identifying egregious inspection errors that ought to be rectified by the department in lieu of submission to the administrative tribunal, including the lack of adequate language access;

3. issuing guidance letters providing informal advisory opinions on matters pertaining to food service establishment inspections, including but not limited to appropriate inspection methods and food handling techniques and best practices when engaging individuals with limited English proficiency during inspections, either upon request or the department's own initiative. Any such guidance letter issued by the ombuds office shall be posted on the department's website upon issuance and, to the greatest extent practicable, distributed to all food service establishment operators;

4. monitoring inspection results for trends and inconsistencies, including but not limited to, [via] the compilation and analysis on a quarterly basis of the type and number of violations issued by each inspector, the number of inspections conducted, and the number of inspections and other enforcement-related activities during

which telephonic interpretation services were provided; and

5. making recommendations to the commissioner regarding improvements to the food service establishment inspection process.

c. [Food service establishment inspections ombuds office; annual] Annual report. No later than July 1, 2014, and every July 1 thereafter, the ombuds office shall submit to the commissioner an annual report regarding its activities during the previous twelve months. The ombuds office shall forward a copy of such report to the mayor and the speaker of the council. Such report shall include, but not be limited to:

1. the number, nature, and resolution of questions, comments, complaints, and compliments received by the ombuds office;

2. the number and nature of guidance letter requested;

3. a copy of each guidance letter issued;

4. an analysis of trends and inconsistencies across inspection results; [and]

5. an analysis of the existing language access tools and policies, including whether the ombuds office believes such tools and policies serve the needs of food service establishment operators; and

6. recommendations for improvements to the food service establishment inspection process in accordance with paragraph [five] 5 of subdivision b of this section.

§ 6. Chapter 11 of title 23 of the administrative code of the city of New York is amended by adding a new section 23-1104 to read as follows:

§ 23-1104 Language access enhancement in inspections and adjudications.

a. Definition. For purposes of this section, the term “inspection agency” means the department of buildings, the department of consumer and worker protection, the department of health and mental hygiene, the department of environmental protection, the department of sanitation, and the fire department.

b. Each inspection agency shall annually submit to the mayor’s office of operations the number of inspectors who report fluency in a language other than English. No later than January 1, 2024, and every

January 1 thereafter, the mayor's office of operations shall submit a report to the mayor and the speaker of the city council compiling such information, disaggregated by language spoken and inspection agency.

c. 1. Upon the issuance of a decision in a matter heard in the hearings division of the office of administrative trials and hearings, a respondent may request that the written decision rendered after a hearing be provided in a language other than English. Each written decision sent to a respondent after such a hearing shall include, in each of the designated citywide languages, a statement informing such respondent of:

(a) the availability of such a translation and how to request the same;

(b) that such a request shall not toll or suspend any time period to appeal such decision provided by any federal, state, or local law or rule; and

(c) if an appeal of such decision may be filed with such office, the amount of time for filing such an appeal and how to request an extension of such amount of time.

2. Upon a respondent making a request for a translation of a decision, such office shall provide a written translation of such decision in the requested language in accordance with this paragraph. The written translation shall:

(a) be provided to a respondent as soon as practicable after such a request is made;

(b) include a disclaimer stating that: (i) the written translation shall be used for informational purposes only; (ii) nothing in such written translation shall serve as the basis for a cause of action against the city or constitute a defense in any judicial, administrative, or other proceeding; and (iii) the decision written in English shall be legally binding, notwithstanding any discrepancy, error, or omission in such written translation; and

(c) if applicable, inform the respondent of the amount of time for filing an appeal of the issued decision with such office and how to request an extension of such amount of time.

3. Any website, online portal, or online form that allows a respondent to request a translation of a decision pursuant to this subdivision shall also inform a respondent that they may, pursuant to such office's rules of practice, request an extension of time to file an appeal and include a link that allows a respondent to

request such an extension.

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

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