



Legislation Text

File #: Res 0731-2023, **Version:** *

Res. No. 731

Resolution calling on the State to pass, and the Governor to sign, Senate Bill S2424, a bill that would include sporting events within the definition of places of public entertainment and amusement for purposes of prohibiting wrongful ejection or refusal of admission.

Council Members Gutiérrez, Louis, Hanif and Cabán

Whereas, Madison Square Garden (“MSG”) is one of several entertainment venues owned and operated by Madison Square Garden Entertainment (“MSG Entertainment”), and is host to several events, including professional sports games, concerts, and other cultural and sporting events; and

Whereas, Facial recognition technology (“FRT”) is a form of biometric identification technology which identifies a person based on their face’s physiological characteristics; and

Whereas, Section 40-B of the New York State Civil Rights Law is a law that forbids the wrongful refusal of admission to, and ejection from, places of public entertainment and amusement for those over the age of 21 who present a valid ticket of admission; and

Whereas, According to news reports, MSG Entertainment has been enforcing an internal policy established in 2022 that forbids attorneys employed at firms involved in active litigation with MSG Entertainment from attending any events held at venues owned by MSG Entertainment; and

Whereas, MSG Entertainment has reportedly enforced this policy through the use of FRT, utilizing pictures of attorneys scraped from headshots on law firm websites, and has, according to news reports, prevented at least four attorneys from attending concerts and sports games without those lawyers needing to present identification; and

Whereas, Some of those attorneys were reportedly not directly involved in any representation involving a lawsuit against MSG Entertainment, but instead just happened to be employed at the same law firm where such representation was being given by other attorneys; and

Whereas, Civil rights advocates, elected officials, and attorney associations have expressed concern around what they claim is the policy’s “retaliatory behavior,” and in particular its enforcement through FRT, with this use case of FRT prompting a letter from the New York State Attorney General to MSG Entertainment to raise concerns around how the policy was potentially violating New York Civil Rights Law; and

Whereas, MSG Entertainment released multiple official statements which stated that their “adverse attorney policy” was due to the “inherently adversarial environment[s]” created by active litigation, and “the need to protect against improper disclosure and discovery”, but have lifted the policy selectively for lawyers related to active litigation involving MSG Entertainment’s potential sale of its majority stake in Tao Group Hospitality; and

Whereas, MSG Entertainment has not provided a justification for this use of FRT, or MSG’s uneven application of its own policy, that was grounded in any security concern; and

Whereas, In March 2023, the Appellate Division of the First Department overturned a lower court’s preliminary injunction blocking MSG Entertainment from enforcing their policy, holding that the civil rights law limits the remedies available to claimants to monetary compensation only, but that the civil rights law would require MSG Entertainment to admit all persons who arrive for a theatrical performance or a concert; and

Whereas, While MSG Entertainment operates multi-purpose venues that can be used to host a variety of entertainments, both the preliminary injunction and the ruling overturning the injunction excluded ‘sporting events’ from their decisions due to that not being one of the enumerated purposes protected under civil rights

law; and

Whereas, Section 40-b of the New York State Civil Rights Law was originally passed to prevent theaters from barring critics from attending their shows, and does not presently include sporting events within the definition of “places of public entertainment and amusement”; and

Whereas, This phrasing seemingly allows for MSG Entertainment and other similar private entities to arbitrarily deny entry to parties they deem unsuitable; and

Whereas, New York State Senate Bill S2424, sponsored by State Senator Brad Hoylman-Sigal, would include sporting events within the definition of “places of public entertainment and amusement” within Section 40-b of the New York States Civil Rights Law, thus limiting the ability of private entities to wrongfully refuse admission to sporting events; now therefore be it,

Resolved, That the Council of the City of New York calls on the State to pass, and the Governor to sign, Senate Bill S2424, a bill that would include sporting events within the definition of places of public entertainment and amusement for purposes of prohibiting wrongful ejection or refusal of admission.

CCK

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