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Int. No. 507

By Council Members Brannan, Hanif, Restler, Sanchez, Ossé and Banks

A Local Law to amend the administrative code of the city of New York, in relation to requiring nightlife establishments to post signage informing patrons about harassment and to train employees about harassment among patrons

Be it enacted by the Council as follows:

Section 1. Section 10-177 of the administrative code of the city of New York, as added by local law 214 for the year 2017, is amended to read as follows:

§ 10-177 Security measures at certain eating or drinking establishments.

a. Definitions. For the purposes of this section, the following terms have the following meanings:

Harassment. The term “harassment” means the offenses as defined by sections 240.25 and 240.26 of the penal law.

Nightlife establishment. The term “nightlife establishment” has the same meaning as is ascribed to such term in section 20-d of the New York city charter.

Security guard. The term "security guard" means a person as defined by subdivision 6 of section 89-f of the general business law.

Security guard company. The term "security guard company" means a company licensed to provide security guards under contract to other entities pursuant to article 7 of the general business law.

b. Digital video surveillance cameras. a. The owner of an eating or drinking establishment that (i) operates pursuant to a permitted use under use group 12, section 32-21 of the zoning resolution, as indicated in such establishment's certificate of occupancy or place of assembly certificate of operation; and (ii) is required to

have a license to sell liquor at retail pursuant to the alcohol beverage control law, shall equip all entrances and exits used by patrons with digital video surveillance cameras that comply with the following provisions:

1. The video surveillance cameras shall be digital in nature and shall be of sufficient number, type, placement, and location to view and record all activity in front of and within 15 feet of either side of each entrance or exit;

2. The video surveillance cameras shall be sufficiently light sensitive and provide sufficient image resolution (supported by additional lighting if necessary) to produce easily discernible images recorded at all times;

3. The video surveillance cameras shall record at a minimum speed of [fifteen] 15 frames per second;

4. The video surveillance camera images shall be capable of being viewed through use of appropriate technology, including but not limited to, a computer screen or closed circuit television monitor;

5. The video surveillance camera or the system affiliated with such camera shall be capable of transferring the recorded images to a portable form of media, including but not limited to, compact disc, digital video disc, universal serial bus, secure digital card, or portable hard drive;

6. The video surveillance cameras shall not have an audio capability;

7. The video surveillance cameras shall be maintained in good working condition;

8. The video surveillance cameras shall be in operation and recording continuously during all hours of operation and for two hours after such establishment closes;

9. The recordings made by video surveillance cameras installed and maintained pursuant to this section shall be indexed by dates and times and preserved for a minimum of 30 days so that they may be made available to the police department and other government agencies acting in furtherance of a criminal investigation or a civil or administrative law enforcement purpose;

10. All recordings made by video surveillance cameras installed and maintained pursuant to this section while in the possession of such establishment shall be stored in a locked receptacle located in a controlled

access area or, if such video recordings are in digital format, in a password-protected digital storage, to which only authorized personnel have access, or shall otherwise be secured so that only authorized personnel may access such video recordings. All personnel authorized to access such video recordings must certify in writing that they have been informed on the appropriate use and retention of recordings as set forth in this section, and on the legal issues associated with video surveillance and the use and retention of recordings. Such establishment shall keep a log of all instances of requests for, access to, dissemination and use of and recorded materials made by video surveillance cameras installed and maintained pursuant to this section; and

11. Signage shall be posted to notify the public of the use of video surveillance equipment so that the public has sufficient warning that surveillance is in operation.

c. Security guards. 1. An eating or drinking establishment that (i) operates pursuant to a permitted use under use group 12, section 32-21 of the zoning resolution, as indicated in such establishment's certificate of occupancy or place of assembly certificate of operation; (ii) is required to have a license to sell liquor at retail pursuant to the alcohol beverage control law; and (iii) employs or retains the services of one or more security guards or a security guard company, shall maintain and make available during all hours of operation, proof that each such security guard is registered pursuant to article 7-A of the general business law or that such security guard company is licensed pursuant to article 7 of the general business law.

2. Such establishment shall maintain a roster of all security guards working at any given time when such establishment is open to the public, and shall require each security guard to maintain on his or her person proof of registration at all times when on the premises.

3. There shall be a rebuttable presumption that a person employed or whose services are retained at such establishment whose job functions include (i) the monitoring or guarding of the entrance or exit of such nightclub to manage ingress and egress to such establishment for security purposes during the hours of operation of such establishment and/or (ii) protection of such establishment from disorderly or other unlawful conduct by such patrons is a security guard, provided, however, that such rebuttable presumption shall not

apply to the owner of such establishment.

4. Any violation of this subdivision may be reported to the state liquor authority.

d. Signage informing patrons about harassment. 1. Every nightlife establishment shall conspicuously post signage, either behind the bar or in the establishment's bathrooms, informing patrons about harassment.

2. Such signage shall include, but not be limited to, the following:

i. That the establishment is a harassment free space;

ii. That a patron subject to harassment while at the establishment may report the harassment to the establishment's security or support staff; and

iii. A list of government resources about harassment, as determined by the office of nightlife and the department of consumer and worker protection.

3. The department of consumer and worker protection shall determine the signage's size and the establishment shall determine the signage's style.

e. Training regarding harassment among patrons. 1. Every nightlife establishment with five or more employees shall annually conduct a harassment training for all employees employed within the city, which shall include, but not be limited to, the following:

(a) An explanation of harassment as a form of unlawful conduct under the penal law;

(b) How to identify harassment among patrons and the proper protocol to intervene;

(c) The responsibilities of an employee when a patron reports harassment, including the measures that an employee must take to address the report of harassment;

(d) Information about bystander intervention, including but not limited to, resources that explain how to engage in bystander intervention; and

(e) Government resources about harassment, as determined by the office of nightlife and the department of consumer and worker protection.

2. Such training shall be required after 90 days of initial hire for all employees who work more than 80

hours in a calendar year who perform work on a full-time or part-time basis.

3. The establishment shall keep a record of all trainings, including a signed employee acknowledgment, for at least three years and make such records available for inspection by the department of consumer and worker protection upon request.

4. The office of nightlife shall make available on its website an online harassment training, which the establishment may use to satisfy the training requirement.

[d.] f. Exemptions. This section does not apply to:

1. Premises owned, occupied and used exclusively by a membership corporation, club society or association, provided such membership corporation, club, society or association was in actual existence prior to January 1, 1926[.];

2. Premises owned, occupied and used exclusively by a religious, charitable, eleemosynary or educational corporation or institution[.]; and

3. Premises licensed pursuant to subchapters one and three of chapter two of title 20.

[e.] g. An eating or drinking establishment that is required to comply with subdivisions b and c of this section shall make available to the police department, upon request, such establishment's certificate of occupancy or place of assembly certificate of operation.

[f.] h. Penalties. Any violation of [this section] subdivisions b and c shall be subject to a civil penalty of not more than $1,000 for each such violation, except that the use or dissemination of recordings made by video surveillance cameras installed and maintained pursuant to subdivision b of this section in violation of the penal law or section 50 of the civil rights law shall result in a civil penalty of not less than $5,000 nor more than $50,000. Any violation of subdivision d shall be subject to a civil penalty of not more than $500 for each such violation, enforced by the department of consumer and worker protection.

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

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