



## Legislation Text

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### Proposed Int. No. 303-A

By Council Member Marte, the Public Advocate (Mr. Williams) and Council Members Restler, J. Sanchez, Epstein, Ossé, Louis, Feliz, Encarnación, Banks, Hankerson, Abreu, Dinowitz, Hanks, Mealy, Won and Salaam

A Local Law to amend the administrative code of the city of New York, in relation to maximum working hours for home care aides

Be it enacted by the Council as follows:

Section 1. Paragraph 3 of subdivision a of section 20-1208 of the administrative code of the city of New York, as amended by local law number 52 for the year 2026, is amended to read as follows:

3. For each violation of:

(a) Section 20-1204,

(1) Rescission of any discipline issued, reinstatement of any employee terminated and payment of back pay for any loss of pay or benefits resulting from discipline or other action taken in violation of section 20-1204;

(2) \$500 for each violation not involving termination; and

(3) \$2,500 for each violation involving termination;

(b) Section 20-1221, \$200 and an order directing compliance with section 20-1221;

(c) Section 20-1222, payment of schedule change premiums withheld in violation of section 20-1222 and \$300;

(d) Section 20-1231, payment as required under section 20-1231, \$500 and an order directing compliance with section 20-1231;

(e) Section 20-1241, \$300 and an order directing compliance with section 20-1241;

(f) Subdivision a of section 20-1251, the greater of \$500 or such employee's actual damages;

(g) Subdivisions a and b of section 20-1252, \$300; [and]

(h) Subdivision a or b of section 20-1262, \$500 and an order directing compliance with such subdivision, provided, however, that an employer who fails to provide an employee with the written response required by subdivision a of section 20-1262 may cure the violation without a penalty being imposed by presenting proof to the satisfaction of the department that it provided the employee with the required written response within seven days of the department notifying the employer of the opportunity to cure; and

(i) Section 20-1292, \$500 and an order directing compliance with section 20-1292, provided that an employer that is a consumer participating in the consumer directed personal assistance program pursuant to section 365-f of the social services law shall not be liable for a monetary penalty for a first violation.

§ 2. Subdivision a of section 20-1211 of the administrative code of the city of New York, as amended by local law number 52 for the year 2026, is amended to read as follows:

a. Claims. Any person, including any organization, alleging a violation of the following provisions of this chapter may bring a civil action, in accordance with applicable law, in any court of competent jurisdiction:

1. Section 20-1204;
2. Section 20-1221;
3. Subdivisions a and b of section 20-1222;
4. Section 20-1231;
5. Subdivisions a, b, d, f and g of section 20-1241;
6. Section 20-1251;
7. Subdivisions a and b of section 20-1252; [and]
8. Section 20-1272;
9. Section 20-1282;
10. Section 20-1283;

11. Section 20-1284;

12. Section 20-1286;

13. Section 20-1289; and

14. Section 20-1292.

§ 3. Chapter 12 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 9 to read as follows:

### SUBCHAPTER 9

#### MAXIMUM HOURS FOR HOME CARE EMPLOYEES

§ 20-1291 Definitions. As used in this subchapter, the following terms have the following meanings:

Home care employee. The term “home care employee” means an employee whose primary responsibility includes the provision of in-home assistance or in-home companionship services for an older adult or a person with an illness, injury, or disability with basic activities of daily living, instrumental activities of daily living, or health-related tasks, or an employee who is engaged in home health aide services, as defined in subdivision 4 of section 3602 of the public health law, or personal care services, as defined in subdivision 5 of section 3602 of the public health law. The term shall include a home care aide as defined in section 3614-C of the public health law.

Home care employer. The term “home care employer” means an employer that employs a home care employee.

Home care shift. The term “home care shift” means a span of consecutive hours starting when a home care employer requires a home care employee to report to a work location and ending when such home care employee is free to leave a work location, provided that rest, meal or sleep breaks do not constitute an interruption of such span of consecutive hours.

Older adult. The term “older adult” means a person 60 years of age or older.

Unforeseeable emergent circumstance. The term “unforeseeable emergent circumstance” means an unpredictable or unavoidable occurrence that requires immediate action, provided that a staffing shortage shall not constitute an unforeseeable emergent circumstance.

§ 20-1292 Maximum home care hours. a. No home care employer shall assign any home care employee to work:

1. Any single home care shift exceeding 12 hours;
2. Consecutive 12-hour home care shifts; or
3. Home care shifts totaling more than 12 hours in any 24-hour period.

b. In the event of an unforeseeable emergent circumstance, a home care employer may assign a home care employee hours in excess of the limitations set forth in subdivision a, provided that the employer has exhausted all reasonable efforts to obtain proper staffing. Such excess hours shall not exceed 2 hours per day or 10 hours per week.

c. 1. Except when subdivision b of this section applies, no home care employer shall assign any home care employee to work home care shifts totaling more than 56 hours in a week unless the employer:

(a) Provides notice to propose such assignment to such home care employee at least 1 week in advance of the first day of the applicable week; and

(b) Obtains consent to the assignment from such home care employee in writing before the applicable week, which may be provided electronically.

2. A home care employee shall have the right to revoke such consent to work hours in excess of the limitations set forth in this subdivision, provided that a home care employer may require a home care employee to provide notice of the revocation 5 calendar days in advance of the effective date of such revocation.

3. The commissioner shall promulgate rules designating the form and manner of the notice and consent required by paragraphs 1 and 2 of this subdivision.

d. 1. A home care employer shall maintain all consent records required pursuant to subdivisions c and

any other records or information necessary to the implementation and enforcement of this subchapter.

2. A home care employer must maintain consent records in their original format and provide such consent records to the department in their original format or a machine-readable electronic format as set forth in rules of the department.

e. Complaints and investigations. 1. Any person, including any organization, alleging a violation of this subchapter may file a complaint with the department.

2. Upon receiving a complaint, the department shall investigate it. Any such investigation shall include interviews with affected home care employees. The department may open an investigation on its own initiative.

3. A home care employer shall allow the department to access such consent records and other information, consistent with applicable law and in accordance with the rules of the department, in furtherance of an investigation conducted pursuant to this chapter. If, as a result of an investigation, the department believes that a violation of this chapter has occurred, the department may attempt to resolve it through any action authorized by chapter 64 of the charter. Adjudicatory powers pursuant to this subchapter may be exercised by the commissioner or by the office of administrative trials and hearings pursuant to chapter 64 of the charter.

4. The department shall keep the identity of any complainant confidential unless disclosure is necessary to resolve the investigation or is otherwise required by law. The department shall, to the extent practicable, notify such complainant that the department will be disclosing the complainant's identity before such disclosure.

§ 20-1293 Notice of rights. a. The commissioner shall develop a notice to inform home care employees of their rights under this subchapter and the manner in which violations of this subchapter may be enforced. Such form notice shall be posted on the department's website and provided to any person upon request. Such notice shall be made available in a downloadable format on the department's website in accordance with the requirements for language access as described in chapter 11 of title 23. The department shall update such notice if any changes are made to the requirements of this subchapter or as otherwise deemed appropriate by the

commissioner.

b. 1. A home care employer shall provide each home care employee with a copy of the notice required by subdivision a of this section in English and in the preferred language of such home care employee, if the commissioner has made the notice available in that language. Such notice shall be provided to each home care employee at the commencement of employment. For home care employees who were employed prior to the effective dates of provisions of this subchapter establishing their rights, the notice shall be provided within 30 days of the effective date of the local law that established each such right.

c. A home care employer that willfully violates the notice requirements of this section shall be subject to a civil penalty in an amount not to exceed \$50 for each home care employee who was not given appropriate notice pursuant to this section.

§ 4. Designated agreement. The term “designated agreement” means an enforceable agreement between a home care employee and a home care employer that (i) imposes requirements on such home care employer relating to such home care employee’s schedule or home care assignments; (ii) was entered into on or before February 18, 2026; and (iii) includes a termination date.

§ 5. This local law takes effect April 1, 2027, except that in the case of home care employees, as such term is defined in section 20-1291 of the administrative code of the city of New York as added by section one of this local law, subject to a designated agreement, as such term is defined in section four of this local law, or a valid collective bargaining agreement, this local law shall apply to such home care employees on the date of the termination of such designated agreement or collective bargaining agreement, provided such designated agreement or collective bargaining agreement has a termination date on a date certain.

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