

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, Salaam, Dinowitz, Nurse, Mealy, Louis, Ayala, Rivera, Cabán, Hanif 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:

1 Section 1. Chapter 2 of title 20 of the administrative code of the city of New York is

2 amended by adding a new subchapter 38 to read as follows:

3 SUBCHAPTER 38

4 HOTELS

5 § 20-565 Definitions.

6 § 20-565.1 Hotel license; application; fee.

7 § 20-565.2 Issuance, denial, renewal, suspension and revocation of license.

8 § 20-565.3 Display of license; facilities and inspections.

9 § 20-565.4 Service requirements and prohibitions.

10 § 20-565.7 Direct Employment

11 § 20-565.8 Panic buttons.

12 § 20-565.9 Chemical injury prevention.

13 § 20-565.10 Retaliatory actions by hotels; prohibition.

14 § 20-565.11 Penalties.

15 § 20-565.12 Rulemaking.

16 § 20-565 Definitions. As used in this subchapter, the following terms have the following

17 meanings:

18 Affected hotel. The term "affected hotel" means a hotel or discrete portion of a hotel that

19 has been the subject of a change in control or a change in controlling interest or identity.

20 Airport hotel. The term "airport hotel" means a hotel within one mile of either LaGuardia

21 Airport or John F. Kennedy International Airport.

1 Bona fide third party. The term “bona fide third party” means a business located on hotel
2 premises that:

3 1. is not affiliated with the hotel except that the business may lease its premises from the
4 hotel;

5 2. does not enter guest rooms or maintain hotel facilities;

6 3. does not share common management with the hotel; and

7 4. does not provide public access to the hotel through its premises.

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

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

19 Continuous coverage. The term “continuous coverage” means staffing 24 hours a day every
20 day that the hotel is occupied by a guest.

21 Core employee. The term “core employee” means any employee whose job classification
22 is related to housekeeping, front desk, front service, or engineering at a hotel. Such classifications
23 include, but are not limited to, room attendants, house persons, bell or door staff, and engineers

1 and maintenance employees. Such classifications shall not include cooks, stewards, bartenders,
2 servers, bussers, barbacks, room service attendants or other employees who primarily work in the
3 food or beverage service operations of the hotel regardless of whether such employees are directly
4 employed by the hotel or by another person.

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

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

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

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

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

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

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

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

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

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

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

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

21 Person. The term "person" means any individual, proprietorship, partnership, joint venture,
22 corporation, limited liability company, trust, association, trustee in bankruptcy, receiver or other
23 entity that may employ persons or enter into service contracts, but does not include the city of New

1 York, the state of New York, and the federal government or any other governmental entity, or any
2 individual or entity managing real property for a governmental entity.

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

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

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

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

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

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

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

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

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

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

6 Successor hotel employer. The term "successor hotel employer" means a hotel employer
7 who owns, controls or operates a hotel after a change in control or change in controlling interest
8 or identity of the hotel or of a discrete portion of the hotel that continues to operate as a hotel after
9 such change.

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

14 § 20-565.1 Hotel license; application; fee. a. License required. It shall be unlawful for any
15 person to operate a hotel without a valid license as herein prescribed for such hotel. All licenses
16 issued pursuant to this subchapter shall be valid for no more than two years and expire on the date
17 the commissioner prescribes by rule. The fee for such license and the renewal therefor shall be
18 \$200.

19 § 20-565.2 Issuance, denial, renewal, suspension and revocation of license. a. A license to
20 operate a hotel shall be granted in accordance with the provisions of this subchapter, chapter 1 of
21 this title, and applicable rules of the commissioner.

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

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

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

8 e. Prior to any revocation, the commissioner shall first notify the licensee of an anticipated
9 revocation in writing and afford the licensee thirty days from the date of such notification to correct
10 the condition. The commissioner shall notify the licensee of such thirty-day period in writing. If
11 the licensee proves to the satisfaction of the commissioner that the condition has been corrected
12 within such thirty-day period, the commissioner shall not revoke such license. The commissioner
13 shall permit such proof to be submitted to the commissioner electronically or in person. The
14 licensee may seek review by the commissioner of the determination that the licensee has not
15 submitted such proof within fifteen days of receiving written notification of such determination.

16 § 20-565.3 Display of license; facilities and inspections. a. Each licensee shall
17 conspicuously display a true copy of the license issued pursuant to this subchapter in close
18 proximity to the main entrance door of each licensee's hotel in such a manner that the license is
19 visible from outside the building where such hotel is located.

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

22 § 20-565.4 Service requirements and prohibitions. a. Front desk staffing. 1. Each hotel must
23 maintain continuous coverage of a front desk.

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

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

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

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

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

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

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

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

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

17 § 20-565.7 Direct employment a. Direct employment required for core employees. A hotel
18 owner must directly employ all core employees, except as provided in this section.

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

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

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

6 § 20-565.8 Panic buttons. Hotel employers must provide panic buttons to all employees
7 that enter occupied guest rooms.

8 § 20-565.9 Chemical injury prevention. Each hotel employer shall provide all employees
9 with information on hazardous chemicals in their work area at the time of their initial job
10 assignment and whenever a new physical or health hazard related to chemical exposure is
11 introduced into work areas. Such information shall be provided in each language spoken by ten or
12 more employees with limited English proficiency.

13 § 20-565.10 Retaliatory actions by hotels; prohibition. a. A hotel employer shall not take
14 any retaliatory action against an employee, whether or not within the scope of the employee's job
15 duties, because such employee does any of the following:

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

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

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

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

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

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

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

10 § 20-565.11 Penalties. a. A licensee who violates or causes another person to violate a
11 provision of this subchapter or any rule promulgated pursuant to such subchapter, in addition to
12 any other applicable penalties provided in this title, shall be subject to a civil penalty as follows:

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

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

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

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

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

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

4 § 20-565.12 Rulemaking. The commissioner shall promulgate such rules as the
5 commissioner deems necessary to effectuate the provisions of this subchapter.

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

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