Sent Via Email: Rulecomments@dcwp.nyc.gov

February 3, 2025

Vilda Vera Mayuga
Department of Consumer & Worker Protections
42 Broadway
New York, NY 10004

Dear Commissioner Vera Mayuga:

On behalf of the American Hotel and Lodging Association ("AHLA"), we write regarding Int 0991-B, which will be implemented by the Department of Consumer & Worker Protections.

AHLA is a national association representing all segments of the U.S. lodging industry, including hotel owners, real estate investment trusts, chains, franchisees, management companies, independent properties, bed & breakfasts, state hotel associations, and industry suppliers.

The industry is comprised of more than 62,000 properties, 33,000 of which are small businesses, and more than 5.6 million hotel rooms across the country. The American lodging industry services more than 1.4 billion rooms per year, supports more than 7 million jobs, and generates more than $52 billion in state and local tax revenue.[1]

New York City is one of the most important hotel markets in the world. It directly employs 42,000 people at an average annual wage of $90,658. It also supports another 257,000 jobs and over $24 billion in wages and salaries each year.[2] The hotel industry pays over $6.7 billion in state and local taxes annually, plus an additional $5.5 billion in federal taxes and contributes more than $39 billion in GDP to support the local economy.[3]

While many other jurisdictions have some form of a hotel license, the NYC hotel license is unique in its broadness and its strict mandates over the operations of a hotel. AHLA's primary concern with the implementation of the legislation is to ensure that the procedure to obtain, maintain, and renew the license is a transparent, streamlined process that recognizes the complexity of the hotel industry model.

If you have any questions, please do not hesitate to contact me at sbratko@ahla.com.

Sincerely,

Sarah Bratko
Vice President and Policy Counsel
State & Local Government Affairs

[1] For more information about AHLA and its members, please visit https://www.ahla.com.
[2] https://economic-impact.ahla.com/
[3] https://economic-impact.ahla.com/

AHLA
AMERICAN HOTEL & LODGING ASSOCIATION

§ 2-481-2-483 General Comments

These rules fail to recognize the effect of and relative requirements of a collective bargaining agreement, which are expressly referenced in the law.

§ 2-481 License application requirements

(a) A hotel license expires on September 30th of even numbered years.

Comments:

1. Set hotel license to expire two years after the date it is awarded, rather than on "September 30th of even number years." The proposed § 2-481(a) is inconsistent with Administrative Code § 20-565.1(b), which provides that hotel licenses are valid for two years. Without the change, nearly all initial hotel licenses will be valid for less than two years.

(b) An application for a hotel license must include the Department's basic license application, the hotel license application supplement, and any other documents and information requested by the Department. Such other documents and information may include collective bargaining agreements, agreements between the hotel and its employees other than collective bargaining agreements, or other documents that demonstrate compliance with the requirements of Administrative Code sections 20-565.4, 20-565.5, and 20-565.6.

Comments:

1. There should be a clarification as to what is included in the "basic license application." Applicants should not be required to include information that includes confidential or sensitive information.

2. "[A]ny other documents and information requested by the Department" is overly broad and vague. The proposed regulation should specifically identify what documents and information DCWP can request, and the enumerated list should be tailored to the requirements of the Safe Hotel Act's licensing requirements. It should be noted that the rules regarding the license application is more specific for other licensing schemes controlled by DCWP. "Other documents and information requested by the Department" shall not include any employee names, addresses, phone numbers, or other private information including employees' wage rates.

3. There should be a presumption that licenses will be granted if the application is complete, timely, and there is no evidence that applicant is not in compliance. Add a provision stating, "A license shall be granted absent evidence that the hotel license application is not in compliance with any provisions of the chapter or any rules promulgated by the commissioner to effectuate the purposes of such chapters."

4. A hotel operator or owner shall be permitted to provide evidence of an enforceable agreement that terminates on a date certain by providing the Department a redacted copy of said agreement that provides the parties to the agreement, the date of the agreement, the termination date, and the signatories to such agreement to demonstrate its exemption from the direct employment requirements of Administrative Code Sections 20-565.5.

5. Include a provision stating: "Compliance with Administrative Code section 20-565.4(e) will be assumed, unless there is evidence that a license applicant knowingly or purposefully permits the hotel to be used for the purposes of human trafficking." (Administrative Code section 20-565.4(e) requires that "[a]n operator of a hotel may not permit the premises of such hotel to be used for the purposes of human trafficking.")

§ 2-482 Records

(a) A hotel operator shall maintain the following records in an electronic format for a period of at least three years:

(1) Any agreement between such hotel operator and an owner of a hotel in the City of New York;

(2) Records demonstrating compliance with the requirements of Administrative Code sections 20-565.4, 20-565.5, and 20-565.6; and

(3) Records demonstrating compliance with the requirements of Administrative Code section 20-851.

Comments:

1. Provision (A)(1) is overly broad and seems to limit a hotel's ability to redact confidential information. This could be alleviated by adding "Records demonstrating," to the beginning of provision (A)(1).

2. Identify what records would appropriately demonstrate a hotel's compliance with safety and cleanliness standards. It should be noted that for other worker protection statutes enforced by DCWP, such as the Fair Workweek Law and Earned Safe and Sick Time law, DCWP's regulations have specifically specified what records an employer must maintain. *See* Title 6 §§ 7-212, 7-603.

3. Identify what records would appropriately demonstrate that a hotel operator has not permitted the hotel premises to be used for the purposes of human trafficking.

4. Identify what records would appropriately demonstrate compliance with section 20-851.

5. Remove § 2-482(a)(3) as it conflicts with the express provisions of 20-565.2(f).

(c) A hotel operator's failure to maintain, retain, or produce a record that is required to be maintained under this section that is relevant to a material fact alleged by the Department in a summons, petition, or other notice of hearing creates a reasonable inference that such fact is true.

Comments:

1. This subsection is vague and punitive and should be deleted. The "reasonable inference" provision effectively shifts the burden of proof to the hotel operator in all enforcement actions pursuant to the Safe Hotels Act.

§ 2-483 Transfer of license; change in ownership or partnership.

(b) A successor hotel operator must complete the Department's basic license application, the hotel license application supplement, and any other documents and information requested by the Department.

Comments:

1. Delete. Subdivision 3(c) of Section of 20.562 says a license is transferable if a transfer was in accordance with 22-510 and notice was given. If those criteria are met, the successor hotel operator should not have to complete a new application (otherwise, this provision negates the point of transferability).

(d) A hotel licensee must notify the Department of a change in its own corporate ownership or partnership in accordance with Administrative Code sections 20-110 and 20-111.

Comments:

1. Delete. It is overly broad and irrelevant to licensure requirements.

§ 2-484 Denial and refusal to renew; suspension and revocation of license

(a) Pursuant to Administrative Code section 20-565.2 and in addition to any other powers of the commissioner, and not in limitation thereof, the commissioner may, after due notice and opportunity to be heard, deny or refuse to renew a hotel license and may suspend or revoke any such license if the applicant or licensee, or, where applicable, any of its officers, principals, directors, members, managers, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation, is found to have:

(1) Made a false statement or concealed a fact in connection with the filing of any application required by subchapter 38 of chapter 2 of title 20 of the Administrative Code or this subchapter;

(2) Failed to comply with any of subdivisions a or b of section 20-565.4, subdivisions a or c of 20-565.5, section 20-565.7 of the Administrative Code, or any of the rules promulgated thereunder, on three or more occasions within a three-year period;

(3) Failed to comply with any of the requirements of this subchapter or any of the provisions of subchapter 38 of Title 20 of the Administrative Code on five or more occasions within a three-year period; or

(4) Operated a hotel at which three or more violations for human trafficking, as defined in section 20-565 of the Administrative Code, occurred within a three-year period.

AMERICAN HOTEL & LODGING ASSOCIATION

Comments:

1. Section (A)(1) uses the phrase "found to have," but does not define makes this determination.

2. Add "knowingly" to the provisions of (A)(1).

3. The procedural protections providing "*due notice and opportunity to be heard*" should be specified and should include an opportunity to appeal the Department's determination to a court and should require the Department to issue a written decision stating the reasons for a license denial, revocation, refusal to renew, or suspension. If the Department finds a failure to comply with the Administrative Code, it should be required to inform the hotel operator what the violations were, when the violations occurred, and the evidence the Department relied upon in making such determination.

4. Subsection (1) should be governed by a materiality standard.

5. Section 3 is overly broad and unfairly punitive. This means that a hotel could lose its ability to operate for minor infractions – such as failing to meet a subjective cleaning standard. Given the penalty schedule in § 6-88, this could allow the department to deem Service Disruption Act and Hotel Worker Displacement Act violations to be a violation of the law.