

July 15, 2019

MEMORANDUM

To: Housing, Health, Energy & Workers Rights Committee
From: Karina Bull, Legislative Analyst
Subject: Hotel Employee Protections – Proposed Legislation

On June 18, 2019, the agenda for the Housing, Health, Energy & Workers Rights Committee (Committee) includes discussion of two Council Bills: [C.B. 119554](#) and [C.B. 119556](#). These proposed ordinances are part of a package of legislation that would extend protections to hotel employees similar to protections included in the *Hotel Employees Health and Safety Initiative* (Initiative 124).

1. Hotel Employees Safety Protections Ordinance [C.B. 119557](#)
2. Protecting Hotel Employees from Injury Ordinance [C.B. 119554](#)
3. Improving Access to Medical Care for Hotel Employees Ordinance [C.B. 119555](#)
4. Hotel Employees Job Retention Ordinance [C.B. 119556](#)

This memo identifies policy issues in the Protecting Hotel Employees from Injury Ordinance (C.B. 119554) and the Hotel Employees Job Retention Ordinance (C.B. 119556). Following this Committee meeting, Central Staff will issue a second memo that focuses on policy issues in the Hotel Employees Safety Protections Ordinance (C.B. 119555) and the Improving Access to Medical Care for Hotel Employees Ordinance (C.B. 119557).

Central Staff understands that the Chair of the Committee is holding space on upcoming meeting agendas in August and September to further discuss the proposed ordinances and vote on amendments. In the intervening time, staff will work with any Councilmember who requests an amendment to the proposed ordinances for future consideration and potential action.

I. **Protecting Hotel Employees from Injury Ordinance – C.B. 119554**

A. Additional pay requirements for employees who perform room cleanings that exceed the maximum floor space

This proposed ordinance requires employers to pay employees at a higher rate for performing room cleanings that exceed a maximum floor space of 5,000 square feet in a workday that is eight hours or longer. Specifically, employers must pay an employee at least one-and-one-half times the employee's normal hourly rate of pay for *all the time* the employee cleans guest rooms during that workday.

Some stakeholders have expressed concern that additional pay requirements for *all the time* the employee cleans guest rooms is unduly burdensome. A different approach could require additional pay for the *actual amount of time* that an employee cleans guest rooms that exceed the maximum floor space.

For employers, this approach could mitigate the financial impact of the additional pay requirements. For employees, this approach could result in fewer additional payments for performing room cleanings that exceed the maximum floor space. Employees also might have to track their work more closely (e.g., track and submit logs that document the actual time spent cleaning the additional space). Notably, this approach also would need to account for situations when an employee exceeds the maximum floor space in a workday that is shorter or longer than eight hours.

Options

1. Make no changes to the proposed ordinance.
2. Amend the proposed ordinance to require employers to pay at least one-and-one-half times the employee's normal hourly rate of pay for the *actual amount of time* the employee performs room cleanings that exceed the maximum floor space during a workday.

B. Definition of "strenuous room cleaning"

In the proposed ordinance, an employee who performs ten or more "strenuous room cleanings" during a certain time period receives a reduction in their maximum floor space for that workday. Specifically, the maximum floor space is reduced by 500 square feet for the tenth strenuous room cleaning, and for each strenuous room cleaning thereafter.

The ordinance defines "strenuous room cleaning" as "the cleaning of (1) a checkout room, (2) a stayover room that includes cleaning, removal, or setting up of a cot, rollout bed, hideaway sofa, pet bed, or crib, or (3) a stayover room that has not received a room cleaning for more than 24 hours."

Some stakeholders have expressed concern that "more than 24 hours" is not enough time to trigger reductions in the maximum floor space. A different approach could increase the number of hours that a stayover room has not received cleaning services to more reliably reflect situations that require strenuous cleaning. For example, the amount of time without room cleaning could be increased to "more than 36 hours."

For employers, this approach could represent a more realistic threshold for situations that merit additional cleaning efforts and could mitigate the cost of additional pay requirements for employees who exceed workload limits. For employees, this approach could impact additional pay requirements for cleaning that exceeds workload limits and possibly undermine the ordinance's goals for protecting employees from workplace injuries. The impact of these outcomes depends on whether requiring an additional eight hours, or other amount of time, materially affects safe working conditions.

Options

1. Make no changes to the proposed ordinance.
2. Amend the definition of “strenuous room cleaning” to increase the number of hours that a stayover room has not received a room cleaning from “more than 24 hours” to a different amount of time, such as “more than 36 hours.”

II. Hotel Employees Job Retention Ordinance – C.B. 119556

A. Employer coverage that includes ancillary hotel businesses

In this package of legislation, all four proposed ordinances cover employers who own, operate, or control hotels of a certain size (i.e., 60-plus rooms or 100-plus rooms). Three of the proposed ordinances (i.e., Hotel Employees Safety Protections Ordinance, Improving Access to Medical Care, Hotel Employees Job Retention Ordinance) also cover employers of certain sizes who own, control, or operate an “ancillary hotel business.” One ordinance (*i.e.* Protecting Hotel Employees from Injury Ordinance) also covers employers of any size that “contract to provide services at a large hotel.”

Table 1: Coverage of ancillary hotel businesses and contract service providers

Title	Council Bill No.	Employer Coverage	Size Threshold
Hotel Employees Safety Protections Ordinance	C.B. 119557	Ancillary hotel businesses	Any size
Protecting Hotel Employees from Injury Ordinance	C.B. 119554	Contract service providers	Any size
Improving Access to Medical Care for Hotel Employees Ordinance	C.B. 119555	Ancillary hotel businesses	50+ employees worldwide
Hotel Employees Job Retention Ordinance	C.B. 119556	Ancillary hotel businesses	20+ employees worldwide

The term “ancillary hotel business” is defined as “any contracted, leased, or sublet premises connected to or operated in conjunction with the hotel’s purpose or providing services at the building.” Notably, Initiative 124 also covers employers that meet this definition of “ancillary hotel business.” Initiative 124 has the same language, almost word for word, in the definition of “hotel” and does not impose restrictions based on the hotel’s number of employees. Hence, the concept of “ancillary hotel business” is not a new idea that emerged in the proposed ordinances.

Some employers have shared their belief that the definition of “ancillary hotel business” is too broad and includes businesses that they believe are tangential to the hotel’s purpose, such as retail stores (e.g., florist, clothing), service-oriented establishments (e.g., hair salons, day spas), and food service establishments (e.g., restaurants, coffee shops). These types of

businesses might be located on the hotel premises but serve the general public with or without customer access into the hotel.

One approach to addressing these concerns is to clarify the definition of “ancillary hotel business” in administrative rules. The rules could clarify whether the phrases, “operating in conjunction with the hotel’s purpose” or “providing services at the building” restrict coverage to certain types of businesses.

Another approach is to amend the ordinance to explicitly restrict coverage. For example, the definition could restrict coverage to businesses supporting the hotel’s core function or businesses providing services that directly benefit hotel guests. While this approach still might require rules to clarify the meaning of “core function” or “services that directly benefit hotel guests,” the amended language would establish more discrete parameters.

Other variations of this approach could restrict coverage to certain types of businesses such as on-site food service establishments or, more narrowly, on-site food service establishments that contract with the hotel. Coverage could also be restricted to businesses with a higher threshold number of employees. A further step in this direction could eliminate all coverage of ancillary hotel businesses.

The implication of these approaches depends on the type of restrictions. Restrictions that focus on the ancillary hotel business’s connection to the hotel’s functions and guest services could still cover employers who might represent the “fissuring” of hotel services into different entities to lower hotel employer costs. Restrictions that focus on the ancillary hotel business’s number of employees could result in covering fewer small businesses. Removing all ancillary hotel businesses could dramatically reduce the scope of employer coverage.

Options

1. Make no changes to the proposed ordinance.
2. Amend the definition of “ancillary hotel business” to restrict coverage to certain types of businesses:
 - a. Businesses that support the hotel’s core function or provide services that directly benefit hotel guests; or
 - b. Food service establishments; or
 - c. Food service establishments that contract with the hotel; or
 - d. Businesses with a higher threshold number of employees; or
 - e. Other specified restriction.
3. Amend the proposed ordinance to eliminate all coverage of “ancillary hotel businesses.”

cc: Kirstan Arestad, Central Staff Director
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