

March 21, 2019

MEMORANDUM

To: Members of the Civil Rights, Utilities, Economic Development & Arts Committee
From: Asha Venkataraman, Council Central Staff
Subject: CB 119487: Legislation to require closed captioning

On March 26, the Civil Rights, Utilities, Economic Development & Arts Committee (CRUEDA) will discuss and potentially vote on [Council Bill 119487](#), requiring that closed captioning must be activated on televisions in public areas of all places of public accommodation. This memorandum provides background on the bill and describes its provisions.

Background

On January 8, 2019, a co-chair on the Commission for People with DisAbilities discussed the concept underlying this legislation in CRUEDA. Committee members discussed a draft version of this bill on March 12. The purpose of the legislation is to make information on televisions accessible to members of the public who are deaf or hard of hearing, to ensure that all people with disabilities have equal opportunity to enjoy places of public accommodation. Though providing equal access is already required by federal law and in [Chapter 14.06](#) of the Seattle Municipal Code,¹ this legislation would shift the burden from a person who must currently ask for closed captioning to be turned on to persons that own or manage public areas in places of public accommodation, to activate closed captioning on their television. Closed captioning also benefits other members of the public such as persons with learning disabilities, sensory disabilities, attention deficits, and autism, as well as the elderly and persons learning English as a second language.

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The legislation requires that any person who owns or manages a place of public accommodation activate closed captioning on televisions in use in a public area during regular hours. The definitions for the substantive terms of this requirement are:

- “Place of public accommodation” is defined in the same way as it is in Chapter 14.06; this law is not expanding the places in which the law requires providing equal opportunity.
- “Public area” means any part of a place of public accommodation that is open to the general public.
- “Regular hours” means hours of the day in which a place of public accommodation is generally open to members of the general public.

¹ The purpose of the law is to “assure all persons equal opportunity to the full enjoyment of places of public accommodation, to eliminate and to prevent unlawful discrimination in places of public accommodation and to provide enforcement mechanisms for the accomplishment of such purposes.”

If all three of those definitions are not met, the requirements of this legislation do not apply. Exceptions to this requirement apply when:

- There is no television in the public area of a place of public accommodation; or
- A television is technically incapable of showing closed captioning.

The bill also defines technical standards for closed captioning, which are black background color; text font of Arial, Calibri, Helvetica, Tahoma or Verdana; text size of 24; and white text color.

This law will be enforced by the Seattle Office for Civil Rights (SOCR). Enforcement of the law will begin 180 days after passage of the bill, to ensure time for education, technical assistance, and outreach to persons subject to the ordinance. After 180 days, if a person is not in compliance with the law, SOCR can send an advisory letter to notify the person of the violation and request a written response within 30 business days to dispute the violation or explain how the violation has been fixed. If there is no response within 30 days or SOCR is not satisfied with the response, SOCR may issue a notice of violation, including a civil penalty of up to \$125 for the first violation and up to \$300 for subsequent violations. If a person appeals the violation to the Hearing Examiner, the Hearing Examiner can affirm, modify, or reverse the violation. In determining the civil penalty, the Hearing Examiner may consider the following factors:

- The extent and nature of the person's involvement in the violation;
- The harms, whether economic, financial or otherwise, which occurred or were suffered as a result of the violation;
- Whether the violations were isolated or temporary, or repeated or continuous;
- The magnitude and seriousness of the violation;
- The City's cost of investigating the violations and correcting or attempting to correct the violation; and
- Any other applicable facts bearing on the nature and seriousness of the violation.

In emphasizing education and awareness as a compliance mechanism, as well as looking at outreach efforts conducted for previous pieces of legislation, additional funding may be required to provide outreach, especially to those businesses who may need translation and more intensive technical assistance. It is unclear whether SOCR's current budget can absorb the \$25,000 - \$50,000 needed to effectuate preliminary outreach and education. Also, given that this enforcement model is informed by SOCR's experience with the all-gender restroom ordinance, it is possible that current staff may not be able to absorb the additional work needed to address the volume of places that need to be brought into compliance nor the degree to which each place may need technical assistance.

The legislation authorizes and directs the SOCR director to promulgate rules for enforcement. The rulemaking may include determining how a person can show compliance.

cc: Kirstan Arestad, Central Staff Director
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