

June 25, 2019

MEMORANDUM

To: Housing, Health, Energy & Workers Rights Committee Members
From: Karina Bull, Policy Analyst
Dan Eder, Deputy Director
Subject: Summary of Hotel Employee Protections Proposed Legislation

The Housing, Health, Energy & Workers Rights Committee's (Committee) June 27, 2019 agenda includes discussion of four Council Bills (CB). This package legislation would extend protections to hotel employees similar to protections that were included in the Hotel Employees Health and Safety Initiative (Initiative 124). This memo provides some background; includes an overview of the legislation; and discusses next steps.

Background

On March 21, 2019, the Committee discussed the history and current status of Initiative 124. In brief, the initiative (codified as [Chapter 14.25 in the Seattle Municipal Code](#) (SMC)) and the associated [administrative rules](#) issued by the Office of Labor Standards are both on hold pending a review by the Washington Supreme Court. Oral argument has been scheduled for September 17, 2019; and it is not clear when the court will reach a final decision.

On April 4, 2019, the Committee discussed the needs of hotel employees with workers and representatives from UNITE HERE Local 8, a union representing workers in the hospitality industries.

On May 2, 2019, the Committee discussed industry standards and best practices with representatives from the Seattle Hotel Association and several individual Seattle hotels.

Councilmembers Mosqueda and González co-sponsored proposed legislation that would replace the protections for vulnerable hotel employees that are currently on hold.

Overview of Proposed Legislation

Broadly speaking, Initiative 124 addressed four categories of protections for hotel employees. The package of proposed legislation includes one Council Bill for each category as described in Table 1.

Table 1: Proposed Legislation and Initiative 124

	Initiative 124	Proposed Legislation
Protecting employees from workplace violence and harassment	Part 1	C.B. 119557
Protecting employees from injury	Part 2	C.B. 119554
Improving employee access to medical care	Part 3	C.B. 119555
Improving employee job retention	Part 4	C.B. 119556

Attachment A provides a more detailed comparison of how each proposed bill would address issues included in Initiative 124.

Although not currently in effect due to ongoing litigation, SMC Chapter 14.25 and its multiple sub-parts were established by Initiative 124. If the City Council passes one or more of the Council Bills referenced in Table 1, an additional piece of legislation will be queued up for the Council’s consideration to remove some or all of SMC Chapter 14.25

Next Steps

Staff understands the Chair of the Committee is holding space on several upcoming meeting agendas to discuss and then vote on the suite of potential legislation protecting hotel employees. Table 2 below provides a summary of anticipated next steps.

Table 2: Summary of Anticipated Next Steps

Date	Anticipated Action
July 2, 2019 (5:00 PM)	Public Hearing
July 11, 2019 (9:30 AM)	Discussion of legislation and potential amendments
July 18, 2019 (9:30 AM)	Discussion and possible vote
August 1, 2019 (9:30 AM)	Discussion and possible vote

Attachment:

- A. Proposed Hotel Employee Protections Comparison with Initiative 124

cc: Kirstan Arestad, Central Staff Director

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I. Overarching Topics

#	TOPICS	I-124	PROPOSED
1	Organization	One ordinance.	Four ordinances.
2	Definition – Hotel	<p>Hotel as defined under “Lodging Use” in SMC 23.84A.024 with 60+ rooms.</p> <p>Hotel also includes “any contracted, leased, or sublet premises connected to or operated in conjunction with the building’s purpose, or providing services at the building.”</p>	<p>No change: Hotel as defined under “Lodging Use” in SMC 23.84A.024 with 60+ rooms.</p> <p>Note: Adds term, “ancillary hotel business,” defined as “any contracted, leased, or sublet premises connected to or operated in conjunction with the <i>hotel’s purpose</i>, or providing services at the building” (emphasis added).</p> <p>Change: “Ancillary hotel business” replaces term, “building’s purpose” with “hotel’s purpose.”</p>
3	Definition – Large Hotel	<p>Hotel as defined under “Lodging Use” in SMC 23.84A.024 with 100+ rooms.</p> <p>Large hotel also includes “any contracted, leased, or sublet premises connected to or operated in conjunction with the building’s purpose, or providing services at the building.”</p>	<p>No change: Hotel as defined under “Lodging Use” in SMC 23.84A.024 with 100+ rooms.</p> <p>Note: Adds term, “ancillary hotel business,” defined as “any contracted, leased, or sublet premises connected to or operated in conjunction with the [large] <i>hotel’s purpose</i>, or providing services at the building” (emphasis added).</p> <p>Change: “Ancillary hotel business” replaces term, “building’s purpose” with “hotel’s purpose.”</p>
4	Enforcement	<p>Private right of action</p> <p>Office of Labor Standards has limited enforcement role (<i>i.e.</i>, authority to conduct investigations and issue administrative rules).</p>	<p>No change: Private right of action</p> <p>Change: Provides Office of Labor Standards with full enforcement role (<i>i.e.</i>, authority to conduct investigations, issue determinations with remedies and penalties/fines, and issue administrative rules).</p>
5	Notice and Posting	<p>Employer must provide <i>individual</i> notice of rights to employees. Office of Labor Standards is not required to create and distribute the notice of rights.</p>	<p>Change: Requires employer to <i>post</i> notice of rights for employees.</p> <p>Change: Requires Office of Labor Standards to create and distribute the notice of rights in multiple languages.</p>

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II. Hotel Employees Safety Protections

#	TOPICS	I-124	PROPOSED
1	Employer Coverage	Employer who owns, controls and/or operates (1) a hotel with 60+ rooms; or (2) any contracted, leased, or sublet premises connected to or operated in conjunction with the building’s purpose, or providing services at the building.	No change: Employer who owns, controls, or operates (1) a hotel with 60+ rooms; or (2) an <i>ancillary hotel business of any size</i> . Note: Adds term, “ancillary hotel business”
2	Employee Coverage	Employee who is (1) covered by state/or Seattle minimum wage, (2) work for covered employer in Seattle, and (3) work at least two hours in any workweek in Seattle. Excludes managers, supervisors, and confidential employees.	No change: Employee who is (1) covered by state and/or Seattle minimum wage, and (2) work for covered employer in Seattle. (3) Change: No requirement to work at least two hours in any workweek in Seattle. Change: No exclusion for managers, supervisors, and confidential employees.
3	Panic Button	“Panic button” means an emergency contact device carried by an employee by which the employee may summon immediate on-scene assistance from another employee, security guard, or representative of the hotel employer. Requires employer to provide panic button only to employees who work <i>alone</i> in a guest room.	“Panic button” means an emergency contact device that an employee may easily carry and activate. When activated, the panic button must summon immediate on-scene assistance from another employee, security guard, or representative of the employer to the employee’s specific location Change: Requires employer to immediately send assistance when the panic button is activated. Change: Requires panic button to identify the employee’s specific location. Change: Requires employer to provide a panic button to <i>all employees</i> who either work in a guest room or make deliveries to a guest room.

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#	TOPICS	I-124	PROPOSED
4	Conduct triggering employer action	No definition of “violence,” “assault,” “sexual assault,” or “sexual harassment.”	Change: Adds term, “violent or harassing conduct,” defined as “conduct that a reasonable person would characterize as: causing physical injury, bodily injury, or bodily harm; threatening to cause physical injury, bodily injury, or bodily harm; unwelcome or inappropriate sexual remarks and/or sexual contact; intentional exposure of nudity; intimidation; or similar conduct.”
5	Policy Development	No requirement	Change: Requires employer to: <ul style="list-style-type: none"> • Develop a policy against violent and harassing conduct by guests; and • Distribute policy to guest and employees.
6	Protections for employees from violent or harassing guests	After receiving an allegation, employer must: <ul style="list-style-type: none"> • Document the identity of guests in a list that is retained for five years; • Warn all employees who are assigned to work in that guest’s room for five years; and • Decline service to guest for three years in the event that both (a) the accusation is about sexual assault, sexual harassment, or assault and (b) the individual alleging the conduct provides a sworn statement or other evidence. 	Change to all requirements <p>After receiving an allegation, employer must:</p> <ul style="list-style-type: none"> • Take immediate preventative action to safeguard employees during the investigation; • Inform both the guest and the employee of the allegation and options for responding to an investigation; • Conduct a fair investigation; • Issue a prompt, written determination to both the guest and the employee; and • Limit access to investigation records to employees with a business reason to know. <p>Note: Employee’s allegation does not need to be accompanied by a sworn statement.</p> <p style="text-align: right;"><i>Continued on page 4</i></p>

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#	TOPICS	I-124	PROPOSED
			<p>Upon an employer’s determination that violent or harassing conduct occurred and <i>did</i> involve physical injury, bodily injury, bodily harm, or unwelcome or inappropriate sexual contact, the employer must:</p> <ul style="list-style-type: none"> • Decline service to guest for five years. <p>Upon an employer’s determination that violent or harassing conduct occurred and <i>did not</i> involve physical injury, bodily injury, bodily harm or unwelcome or inappropriate sexual contact, the employer must</p> <ul style="list-style-type: none"> • Not assign employees to work in guest’s room or make deliveries to guest’s room for five years. • Upon an employer’s determination of violent or harassing conduct <i>did not occur</i>, the employer must not assign the employee who made the allegation to work in guest’s room or provide services to guest for five years (but may assign other employees to do so). <p>Guest may appeal an employer’s determination to the City’s Hearing Examiner.</p>
7	Protections for employees who report – Paid time	Employer must provide “sufficient paid time” to work with police and to consult a “counselor or advisor.”	Change: Employer must provide <i>up to eight hours</i> of paid time within seven days following a report to work with police and consult a “counselor or advisor.”
8	Protections for employees who report – Paid Time	No definition of “counselor or advisor.”	Change: Defines “counselor or advisor” broadly as a person who “gives advice or guidance, including family members, friends, licensed professionals, attorneys, and advocates.

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III. Protecting Hotel Employees from Injury

#	TOPICS	I-124	PROPOSED
1	Employer Coverage	Employer who owns, controls, and/or operates (1) a large hotel with 100+ rooms or (2) any contracted, leased, or sublet premises connected to or operated in conjunction with the building's purpose, or providing services at the building.	Employer who (1) No change: owns, controls, or operates a large hotel with 100+ rooms; or (2) Change: <i>contracts to provide services</i> at a large hotel.
2	Employee Coverage	Employee who is (1) covered by state/or Seattle minimum wage, (2) works for covered employer in Seattle, and (3) works at least two hours in any workweek in Seattle. Excludes managers, supervisors, and confidential employees.	No change: Employee who is (1) covered by state and/or Seattle minimum wage, and (2) works for covered employer in Seattle. (3) Change: No requirement to work at least two hours in any workweek in Seattle. Change: No exclusion for managers, supervisors, and confidential employees.
3	WISHA protections	Incorporated requirements that duplicate portions of Washington State Industrial Safety and Health Act (WISHA).	Change: Removes requirements that duplicate WISHA.
4	Maximum Square Footage	Established a limit of 5,000 square feet of guest room space that an employer can require an individual housecleaner to clean during an 8-hour workday.	No change: Establishes a limit of 5,000 square feet of guest room space that an employer can require an individual housecleaner to clean. Change: Establishes limits during an 8-hour <i>or longer</i> workday.

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#	TOPICS	I-124	PROPOSED
5	Room Cleaning	No definition of "Room cleaning."	<p>Change: Adds term, "room cleaning," defined as "services or tasks required to prepare or maintain the cleanliness of the physical hotel guest room before, during, or after the guest's stay."</p> <p>Change: Excludes activities related to maintenance of fixtures and appliances, preparing already made beds for sleep, maintaining or delivering inventory, and inspections.</p>
6	Strenuous Room Cleaning	<p>"Strenuous room cleaning" means the cleaning of</p> <ul style="list-style-type: none"> (1) a checkout room or (2) a stayover room that includes a cot, rollout bed, pet bed or crib. 	<p>"Strenuous room cleaning" means the cleaning of</p> <ul style="list-style-type: none"> (1) No change: a checkout room, (2) No change: a stayover room that includes cleaning, removal, or setting up of a cot, rollout bed, hideaway sofa, pet bed, or crib, or (3) Change: a stayover room that has not received a room cleaning for more than 24 hours
7	Team Cleaning	No requirements for counting square footage when more than one employee cleans the room.	Change: Permits employer to divide square footage when more than one employee cleans the room, provided that the employees have agreed to team cleaning.
8	Consent to Clean More than Maximum Square Footage	Employer shall not require employee to clean more than the maximum square footage.	<p>No change: Employer shall not require employee to clean more than the maximum square footage.</p> <p>Note: Codifies employee's right to decline more than the maximum square footage (<u>i.e.</u>, permits additional cleaning only upon employee's request or voluntary consent).</p> <p>Change: Requires employer to provide advance notice of the additional assignment's total square footage and time.</p>

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#	TOPICS	I-124	PROPOSED
9	1.5x Pay Rule	Requires 1.5x <i>regular rate of pay</i> for any time spent cleaning guest rooms when employee cleans more than the maximum square footage.	<p>No change: Requires 1.5x <i>normal hourly rate of pay</i> for any time spent cleaning guest rooms when employee cleans more than the maximum square footage.</p> <p>Note: Replaces “regular rate of pay” with “normal hourly rate of pay” defined as “the hourly rate that the employee would have earned during that shift, not including overtime pay.”</p>
10	1.5x Pay Rule – Exceptions for unforeseeable emergency, illness, or activity protected by law	Silent as to exceptions.	<p>Change: Incorporates exceptions to the 1.5x pay rule for the following situations</p> <ul style="list-style-type: none"> (1) an employee must leave work early due to unforeseeable event (<u>e.g.</u>, illness) or activity protected by law; (2) employer operations cannot begin or continue due to specified reasons (<u>e.g.</u>, public utilities failure). <p>Example: Employer is not required to provide employee with additional pay if employee is ahead of the cleaning schedule and suddenly leaves work to take sick leave.</p>
11	1.5x Pay Rule – Exceptions for employee request	Silent as to exceptions.	<p>Change: Requires employer to pay employee for remainder of their shift if employer grants an employee requests to go home early.</p>

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IV. Access to Medical Care

#	TOPICS	I-124	PROPOSED
1	Employer Coverage	<p>Employer who owns, controls and/or operates</p> <ul style="list-style-type: none"> (1) a large hotel with 100+ rooms or (2) any contracted, leased, or sublet premises connected to or operated in conjunction with the building’s purpose, or providing services at the building. 	<p>No change: Employer who owns, controls or operates</p> <ul style="list-style-type: none"> (1) a large hotel with 100+ rooms; or (2) an <i>ancillary hotel business with 50+ employees worldwide</i>. <p>Note: Adds term, “ancillary hotel business”</p> <p>Change: Adds requirement for ancillary hotel business to have 50+ employees worldwide.</p>
2	Employee Coverage	<p>Employee who is</p> <ul style="list-style-type: none"> (1) covered by state/or Seattle minimum wage, (2) works at least 80 hours per month in Seattle for covered employer, and (3) is a low-wage employee (400% poverty line). <p>Excludes managers, supervisors, and confidential employees.</p>	<p>No change: Employee who is</p> <ul style="list-style-type: none"> (1) covered by state and/or Seattle minimum wage, and (2) works for covered employer in Seattle for an average of 80 hours or more per month. (3) Change: Removes requirement for low-wage employee (400% poverty line). <p>No change: Excludes managers, supervisors, and confidential employees.</p> <p>Change: Allows an employee to opt out of the protections and provisions in the bill if the employee</p> <ul style="list-style-type: none"> (1) already receives health insurance that is at least “gold-level equivalent,” and (2) has received written disclosure of rights from the employer, and (3) has provided the employer with a written waiver on form created by Office of Labor Standards.

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#	TOPICS	I-124	PROPOSED
3	Additional pay	<p>Employer must provide additional monthly pay to low-income employees based on employee’s hours worked that month, compensation paid that month, and the employee’s WA Exchange premium cost.</p> <p>Employer is not required to provide additional pay for employees who enrolled in an employer-sponsored plan that is equivalent to a gold-level plan on Exchange and costs no more than 5% of employee’s monthly pay.</p>	<p>Change to all elements: Employer must make a monthly “healthcare expenditure” to or on behalf of each employee.</p> <ul style="list-style-type: none"> • The overall health care expenditure amount is fixed at one of four levels depending on the employee’s household circumstances: <ol style="list-style-type: none"> (1) employee, (2) employee + spouse, (3) employee + dependent, (4) employee + spouse + dependent. • Employer may choose to make the healthcare expenditure through any combination of the following: <ol style="list-style-type: none"> (1) additional pay, (2) payments to a third party to provide healthcare services, and/or (3) monthly expenditures for healthcare services by employer’s self-insured and/or self-funded insurance program. • Employer is not required to make monthly healthcare expenditure if employee voluntarily declines employer’s offer of employer-sponsored health insurance and certain requirements are met: <ol style="list-style-type: none"> (1) employer’s offer of employer-sponsored health insurance meets required healthcare expenditure rate, and (2) employer’s offer would not result in employee paying more towards purchase of monthly health insurance premium than a dollar amount equivalent to 20% of the monthly required healthcare expenditure amount for single person with no spouse and no dependents. <p>Expenditure rates will be adjusted annually.</p>

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V. Hotel Employees Job Retention

#	TOPICS	I-124	PROPOSED
1	Employer Coverage	<p>Employer who owns, controls and/or operates</p> <ul style="list-style-type: none"> (1) a large hotel with 60+ rooms or (2) any contracted, leased, or sublet premises connected to or operated in conjunction with the building’s purpose, or providing services at the building. 	<p>Employer who owns, controls or operates</p> <ul style="list-style-type: none"> (1) a large hotel with 60+ rooms; or (2) an <i>ancillary hotel business with 20+ employees worldwide</i>. <p>Note: Adds term, “ancillary hotel business”</p> <p>Change: Adds requirement for ancillary hotel business to have 20+ employees worldwide.</p>
2	Employee Coverage	<p>Employee who is</p> <ul style="list-style-type: none"> (1) covered by state/or Seattle minimum wage, (2) works at least two hours in any particular workweek in Seattle for covered employer, and (3) works at least <i>one month</i> prior to change in control. <p>Excludes managers, supervisors, and confidential employees.</p>	<p>Employee who is</p> <ul style="list-style-type: none"> (1) No change: covered by state and/or Seattle minimum wage, and (2) No change: works for covered employer in Seattle for at least <i>30 days</i> prior to change in ownership. (3) Change: No requirement to work at least two hours in any particular workweek in Seattle. <p>Note: Replaces “one month” with “30 days.”</p> <p>No change: Excludes supervisors, managers, and confidential employees.</p>
3	Outgoing employer obligations for hotels & ancillary hotel businesses	<p>Outgoing hotel employer must provide a preferential hiring list to the incoming hotel employer.</p> <p>Outgoing hotel employer must post notice of the change in ownership at the jobsite.</p>	<p>No change: Outgoing employer that undergoes a change in ownership must provide a preferential hiring list to the incoming employer.</p> <p>No change: Outgoing employer must post notice of the change in ownership at the jobsite.</p>

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4	Incoming employer obligations for hotels & ancillary businesses	<p>Incoming employer must hire from the preferential hiring list for <i>six months</i>. If an employee accepts a job offer, the employer must retain the employee for no less than 90 days and can only discharge the employee for just cause during this time period.</p> <p>Incoming employer must continue to post notice of the change in ownership for <i>six months</i>.</p>	<p>No change: Incoming employer must hire from the preferential hiring list for <i>180 days</i>. If an employee accepts a job offer, the employer must retain the employee for no less than 90 days and can only discharge the employee for just cause during this time period.</p> <p>No change: Incoming employer must continue to post notice of the change in ownership for <i>180 days</i>.</p> <p>Note: Replaces “six months” with “180 days”</p>