

LOCAL LAW NO. "K" FOR 2018

A LOCAL LAW TO ESTABLISH THE ALBANY COUNTY FAIR HOTEL CONSUMER PRACTICES LAW

Introduced: 5/14/18

By Messrs. Clenahan and Bullock

BE IT ENACTED by the Albany County Legislature as follows:

Section 1. Legislative Intent.

The Legislature hereby finds and determines that hotels should be honest and transparent with their guests regarding disruptions of service such as infestations, construction issues, pickets, and boycotts at their hotels.

The Legislature further finds that hotel guests will frequently be unaware of such issues when they make a reservation at a hotel, and often find it difficult if not impossible to cancel their reservations upon arriving at the hotel and discovering such issues.

The Legislature further finds that fair hotel consumer practices would require hotels to notify guests of any such disruption in service, and should insure refunds and eliminate cancellation fees in the case of such a disruption.

Section 2. Definitions. As used in this Local Law, the following terms shall have the meanings indicated:

- (a) **HOTEL** — A building in which lodging is provided and offered to the public, which is customarily open to transient guests, and which may include ancillary facilities and services such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities. A hotel unit may contain a kitchen for extended stay lodgings. Outdoor athletic courts and other outdoor facilities are permitted and may be included with a hotel use.
- (b) **HOTEL SERVICES** — Any services commonly offered by a Hotel, including, but not limited to, letting of guest rooms, letting of meeting rooms, provision of food and/or beverage services, provision of banquet services, and provision of spa services.
- (c) **SERVICE DISRUPTION** — The occurrence of any of the following: (i) Any construction at such hotel that creates excessive noise that has the potential to disturb guests in their rooms other than construction that is unplanned and intended to correct an emergency or other situation requiring immediate attention; (ii) Any durational strike, lockout, boycott, or picketing activity at or near a Hotel which is related to such Hotel; or (iii) Any infestation verified by a

licensed exterminator or governmental agency of hotel rooms by bed bugs, lice, or other insects or vermin that are capable of spreading disease and/or being carried, including on one's person, that has not been remedied by a licensed exterminator.

Section 3. Prohibitions.

- (a) Notification of Service Disruption. A Hotel must notify, in writing, each guest who has reserved a room, any customer who has entered into a booking to utilize Hotel Services, and any vendor with which the hotel has an arrangement for third-party room reservations, of any Service Disruption, including a description of the nature of the service disruption, and of the right to a full refund of the amount paid for any portion of a stay affected by such service disruption. Such notification must be prominent and clear. If such notice is included in a communication containing other information, it must be prominent and clear, in a significantly larger font and different color than the remainder of the communication.
- (b) Right to Refund and Prohibition on Penalty for Cancellation. Guests and customers shall be entitled to a full refund of the amount paid for any portion of a stay affected by a service disruption. Hotels may not impose any fee, penalty or other charge, nor retain any deposit in the event a guest or customer cancels a reservation, arrangement or agreement to use Hotel Services in the event of a Service Disruption.
- (c) If a Hotel violates subsection (a) of this section, such Hotel shall immediately upon request refund affected guests and customers an amount equal to two hundred percent (200%) of the total cost charged for the night or nights affected by the disruption, agreed upon, or quoted to the affected guest or customer, except in cases where commencement of a service disruption make it impractical to provide timely notification.
- (d) Private right of action. In addition to any other penalties for violations of this Local Law, guests and customers may also bring a private cause of action to recover, in addition to the remedies provided for in subsection (c) of this section, compensatory and consequential damages. A successful plaintiff in such an action shall be entitled to recover reasonable costs and attorney's fees.

Section 4. Applicability.

This Local Law shall apply to all actions occurring on or after the effective date as set out in Section 6.

Section 5. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this Local Law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law, or in its application to the person, individual, corporation, firm, partnership, entity or

circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 6. Effective Date.

This law shall take effect sixty (60) days following its filing in the Office of the New York State Secretary of State.

Referred to Law Committee – 5/14/18