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Santa Monica's New Hotel Worker Protection Ordinance: What You Need to Know, Now

On August 27, 2019, the Santa Monica City Council voted unanimously to pass an ordinance providing certain protections for hotel workers, with particular focus on Room Attendants, working in the city of Santa Monica. The City Council heard lengthy public comment on both sides of the proposed ordinance, with Unite Here's Local 11 being both the most numerous and the most outspoken in favor of the ordinance.

At the close of public comment, changes were made to the ordinance as initially proposed. These changes, in large part, only made the ordinance more restrictive on hotel employers. The following is a summary of the ordinance's requirements. All the following requirements will become **effective on January 1, 2020**, unless otherwise specified.

Panic Buttons

Effective 1/1/2020

All Santa Monica hotels, regardless of the number of rooms, will be required to provide a personal security device to any hotel worker assigned to work unaccompanied in a guest room or restroom facility.

Employers will be forbidden from retaliating against a worker who uses their panic button unless the employer can show that the worker knowingly and intentionally used the button to signal a false emergency.

All hotel workers must be trained on the use and maintenance of the personal security devices and the hotel's protocol for responding to calls from these devices by January 1, 2020, or within one month of hire thereafter.

Protections for Victims of Guest-Initiated Violence

Effective 1/1/2020

Any hotel worker who reports violent or threatening conduct by a hotel guest must be given paid time off to report the conduct to law enforcement and to consult with a counselor or advisor of their choosing. Employers will be required, upon request, to provide reasonable accommodations to the employee-victim due to the incident.

Questions? Contact Stokes Wagner.

Hotel employers may not prevent or attempt to prevent an employee from reporting such an incident, nor retaliate against a worker if that worker decides **not** to report such an incident.

All hotel workers must be trained on these rights and obligations by January 1, 2020, or within one month of hire thereafter.

Updated Door Notices

Effective 1/1/2020

Signage on the back of the entrance door to guest rooms and restroom facilities will be required to include, in at least 18-point font:

1. The following language: “The Law Protects Hotel Workers From Threatening Behavior”;
2. Notification that hotel workers are equipped with personal security devices; and,
3. A citation to the ordinance.

Square Footage Caps for Room Attendants

Effective 1/1/2020

Hotel employees cleaning guest or meeting rooms, regardless of title, will be limited to cleaning no more than a specific square footage depending on hotel size based upon the length of their scheduled shift.

For hotels with 40 or fewer rooms, employees may not be required to clean more than 4,000 square feet of floor space, regardless of furniture, equipment, or amenities, in one eight-hour workday.

For hotels with 41 or more rooms, employees may not be required to clean more than 3,500 square feet of floor space, regardless of furniture, equipment, or amenities, in one eight-hour workday.

For hotel employers interested in modeling how such a change may affect their current workforce and scheduling, the following should be noted:

1. If an employee is scheduled to work greater or fewer than eight hours in one workday, the square footage cap prorates to a greater or lesser amount, respectively.
2. “Floor space” is not limited to guest rooms, but encompasses any combination of spaces within the property, including meeting rooms and ballrooms. If you have a large ballroom, for instance, assigning an employee to clean said ballroom alone [even to vacuum the floors] could massively cut into their daily square footage total.
3. If an employee is assigned to clean seven or more “checkout rooms” or rooms with additional beds [i.e., cots or rollaways], these rooms must be counted as 500 square feet against the total, regardless of the actual square footage of the room.

If a Room Attendant is assigned work over the square footage cap during their workday, an employer must compensate them at twice their regular rate of pay **for all hours worked** – not just those hours worked on space beyond the square footage cap.

Elimination of Mandatory Overtime Past Ten Hours

Effective 1/1/2020

Hotel employers will be prohibited from requiring hotel workers to work more than 10 hours in a workday without written consent.

Hotel employers will be required to provide written notice to all hotel workers informing them that they are allowed to decline to work more than 10 hours in a workday and that the Hotel cannot take any adverse action against them for doing so.

Changes in Control: Notice and Employee Retention

Effective immediately on the effective date of the ordinance – projected October 2019

In the event of a change in control of a hotel property, the successor employer will be required to post written notice of the change in control in a conspicuous area.

Successor employers will also be required to offer continuing employment to eligible hotel workers for a period of not less than 90 days. Hotel workers are eligible for continuing employment if they were employed for at least two months prior to the change in control. Exceptions are provided where an eligible employee has prior performance or conduct issues, or where the successor determines it requires fewer employees than the predecessor.

During the 90 days, employees may only be terminated for cause. All employees must receive written performance reviews at the close of their 90-day period.

Mandatory Third-Party Training

Effective 1/1/2021

By January 1, 2021, the city will be responsible for certifying and naming a “Public Housekeeper Training Organization.” This organization will offer a training program called the “Public Housekeeper Training Program.” The program will be a six-hour training, and include training on:

1. Hotel workers rights and hotel employer responsibilities;
2. Identifying and responding to human trafficking, domestic violence, or threatening conduct;
3. Effective cleaning techniques to prevent the spread of disease;
4. Identifying and avoiding insect or vermin infestation; and,
5. Identifying and responding to potential criminal activity.

At the close of training, attendees will be required to submit to an examination. Passing the examination will result in the issuance of a Public Housekeeping Certificate, which will remain valid for five years. No room attendant may be employed for more than 120 days without a valid Certificate.

Hotels will be required to contract with the Public Housekeeper Training Organization annually to provide this training and administer the examination.

Notice of New Rights and Obligations

Effective 1/1/2020

Written notice of the rights and obligations outlined in the ordinance must be provided to all employees by the ordinance's effective date, or at the time of hire [whichever is later]. Notices must be provided in English, Spanish, and any other language spoken by 5% or more of the hotel workers employed.

CBA Waiver

The ordinance's provisions regarding square footage caps, written consent to overtime over 10 hours, and change in control are all waivable pursuant to a collective bargaining agreement.

Liability for Violation

Violations of the obligations noted above will expose employers to damages up to \$100 per aggrieved person per day. Treble damages may be awarded for willful violations.

Attorney's fees and costs are awarded similarly to FEHA. A prevailing defendant will not be entitled to attorney's fees or costs unless they can show the action was frivolous, unreasonable, or groundless. Prevailing plaintiffs will be entitled to recover reasonable attorney's fees and costs. Courts **will not** have the discretion to deny fees or costs to prevailing plaintiffs, as they do under the FEHA structure.

This ordinance is a sea change for Santa Monica hoteliers. These requirements will, in most cases, create a need for massive operational changes in a very short amount of time. Hotel employers are encouraged to work with an attorney or firm that can help ensure compliance from day one.