



## Legislation Text

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Int. No. 699

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A Local Law to amend the New York city charter and administrative code of the city of New York, in relation to enhancing language access for small business owners

Be it enacted by the Council as follows:

Section 1. Subdivision f of section 15 of the New York city charter, as amended by local law number 132 for the year 2013, is amended to read as follows:

f. 1. The office of operations shall develop a business owner's bill of rights. The bill of rights shall be in the form of a written document, drafted in plain language, that advises business owners of their rights as they relate to agency inspections. Such written document shall include translations of the bill of rights into at least the [six] ten languages most commonly spoken by limited English proficient individuals, as those languages are determined by the department of city planning. The bill of rights shall include, but not be limited to, notice of every business owner's right to: i) consistent enforcement of agency rules; ii) compliment or complain about an inspector or inspectors online, anonymously, if desired, through a customer service survey, and information sufficient to allow a business owner to do so, including but not limited to the url of such survey; iii) contest a notice of violation before the relevant local tribunal, if any; iv) an inspector who behaves in a professional and courteous manner; v) an inspector who can answer reasonable questions relating to the inspection, or promptly makes an appropriate referral; vi) an inspector with a sound knowledge of the applicable laws, rules and regulations; vii) access information in languages other than English; and viii) request language interpretation services for agency inspections and any subsequent administrative hearings and trials, including pre-trial

conferences and settlement negotiations.

2. [To the extent practicable, the] The office of operations shall develop and implement a plan to distribute the bill of rights to all relevant business owners, including via electronic publication on the internet, and to notify such business owners if the bill of rights is subsequently updated or revised. The office of operations shall also develop and implement a plan in cooperation with all relevant agencies to [facilitate] require the distribution of a physical copy of the bill of rights to business owners, [or] managers, or relevant employee at the [time] beginning of [an] every inspection, except that if the inspection is an undercover inspection [or if the business owner or manager is not present at the time of the inspection], then a copy of the bill of rights shall be provided as soon as practicable. In the event that the business owner or manager is not present at the time of inspection, an electronic copy of the bill of rights shall be provided as soon as practicable in addition to the physical copy provided at the time of inspection.

3. [To the extent practicable, the] The office of operations shall develop and implement a plan for each business owner to indicate the language in which such owner would prefer that agency inspections of the business be conducted and agency procedural and informational documents be translated into. [To the extent practicable, the] The office of operations shall also develop and implement a plan to inform all relevant agencies of such respective language preference.

4. The bill of rights shall serve as an informational document only and nothing in this subdivision or in such document shall be construed so as to create a cause of action or constitute a defense in any legal, administrative, or other proceeding.

§2. Section 17-1502 of the administrative code of the city of New York is amended to read as follows:

§ 17-1502 Food Service Establishment Inspection Code of Conduct. a. The commissioner shall develop a code of conduct pertaining to sanitary inspections. The inspection code of conduct shall inform owners and operators of food service establishments of their rights as they relate to sanitary inspections.

b. The inspection code of conduct shall be in the form of a written document, drafted in plain language.

The department shall distribute the inspection code of conduct to all food service establishment inspectors and food service establishments. Food service establishment inspectors shall also distribute the inspection code of conduct to food service establishment owners or operators prior to the beginning of [an initial] each inspection. Such written document shall include translations of the inspection code of conduct into at least the ten languages most commonly spoken by limited English proficient individuals, as those languages are determined by the department of city planning. The department shall make the inspection code of conduct available on the department's website in the covered languages.

c. The code of conduct shall include, but not be limited to, the following requirements:

(1) the food service establishment inspector shall behave in a professional and courteous manner;

(2) upon arriving at the food service establishment to perform a sanitary inspection, the food service establishment inspector shall immediately identify himself or herself to the staff of the food service establishment, [and] note the type of inspection, and disclose the availability of free interpretation services, in a manner that does not unreasonably interfere with the dining experience of patrons;

(3) the food service establishment inspector shall be as unobtrusive as possible during the inspection while conducting the inspection;

(4) the food service establishment inspector shall return any equipment he or she moved back to its original location, and reassemble any equipment he or she disassembled, during the course of the inspection;

(5) the food service establishment inspector shall have a sound knowledge of all relevant health code provisions and any other applicable laws and regulations.

(6) the food service establishment inspector shall meaningfully communicate with the food service establishment owner or operator, and if necessary, utilize language assistance services to facilitate meaningful communication;

(7) the food service establishment inspector shall answer reasonable questions relating to the inspection;

(8) the food service establishment inspector shall enforce agency rules in a fair and impartial manner;

(9) the food service establishment inspector shall, upon finding a violation, explain to the food service establishment owner or operator how to remedy such violation.

(10) the food service establishment inspector must provide information informing the food service establishment owner or operator how such owner or operator may contest a notice of violation before the relevant local tribunal, including information about the right to access language interpretation services; and

(11) the food service establishment inspector shall provide information on how the food service establishment owner or operator may file a comment, compliment, or complaint about an inspector[.], including information about filing in a language other than English.

d. The commissioner shall regularly, but no less frequently than every two years, review and update the inspection code of conduct, as necessary.

e. Nothing in this section or in the inspection code of conduct shall be construed to create a cause of action or constitute a defense in any legal, administrative, or other proceeding.

§ 3. Section 17-1505 of the administrative code of the city of New York is amended to read as follows:

§ 17-1505. a. Food service establishment inspections ombuds office; office established. There is hereby established within the food safety program of the department a food service establishment inspections ombuds office.

b. Food service establishment inspections ombuds office; duties and responsibilities. The food service establishment inspections ombuds office shall have, but not be limited by, the following duties and responsibilities:

1. establishing a system to receive questions, comments, complaints, and compliments with respect to any food service establishment inspection, including but not limited to, the establishment, operation, and dissemination of a central telephone hotline and website to receive such questions, comments, complaints, and compliments;

2. investigating complaints received pursuant to paragraph one of this subdivision and taking any action

it deems appropriate regarding such complaints, including but not limited to, withdrawing violations that concern the physical layout and/or major fixtures within a food service establishment where the department finds that such physical layout or fixture existed at the time of a prior inspection but was not the subject of a violation and the condition has not been altered since the time of such prior inspection, and identifying egregious inspection errors that ought to be rectified by the department in lieu of submission to the administrative tribunal, including the lack of adequate language access;

3. issuing guidance letters providing informal advisory opinions on matters pertaining to food service establishment inspections, including but not limited to appropriate inspection methods and food handling techniques and best practices when engaging individuals with limited English proficiency during inspections, either upon request or the department's own initiative. Any such guidance letter issued by the ombuds office shall be posted on the department's website upon issuance and, to the greatest extent practicable, distributed to all food service establishment operators;

4. monitoring inspection results for trends and inconsistencies, including but not limited to, via the compilation and analysis on a quarterly basis of the type and number of violations issued by each inspector, and whether interpretation services were utilized during the inspection; and

5. making recommendations to the commissioner regarding improvements to the food service establishment inspection process.

c. Food service establishment inspections ombuds office; annual report. No later than July 1, 2014, and every July 1 thereafter, the ombuds office shall submit to the commissioner an annual report regarding its activities during the previous twelve months. The ombuds office shall forward a copy of such report to the mayor and the speaker of the council. Such report shall include, but not be limited to:

1. the number, nature, and resolution of questions, comments, complaints, and compliments received by the ombuds office;

2. the number and nature of guidance letter requested;

3. a copy of each guidance letter issued;

4. an analysis of trends and inconsistencies across inspection results; [and]

5. an analysis of the existing language access tools and policies and whether they effectively serve the needs of food service establishment operators and recommendations on how to improve and expand such services; and

[5] 6. recommendations for improvements to the food service establishment inspection process in accordance with paragraph five of subdivision b of this section.

§ 4. Chapter 56 of the New York city charter is amended by adding a new section 1309 to read as follows:

§ 1309. Language Access Enhancement. a. The department shall coordinate with the relevant agencies to increase the number of inspectors who speak English and at least one of the designated citywide languages, as defined in section 23-1102 of the administrative code, or any language spoken by at least ten percent of small business owners or managers such that a small business owner may request a bilingual inspector for all inspections beginning on July 1, 2024. For purposes of this subdivision, relevant agencies shall include the department of buildings, the department of consumer and worker protection, the department of health and mental hygiene, the department of environmental protection, the department of sanitation, the fire department, and the department of small business services.

b. By March 1, 2023, the department, in consultation with the office of administrative trials and hearings, shall develop and implement a plan to provide a business owner with a matter pending before the office of administrative trials and hearings with a written translation of the final decision of any matter before the tribunal. Such written translation shall contain a disclaimer stating that is shall serve only as an informational document and that nothing within the translated document shall be construed so as to create a cause of action or constitute a defense in any legal, administrative, or other proceeding. Such translation shall be issued at the same time as the tribunal's final decision.

§ 4. This local law takes effect 60 days after it becomes law.

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