

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2006**

No. 35

By The Speaker (Council Member Quinn) and Council Members Vallone Jr., Gerson, Recchia Jr., Brewer, Comrie, Fidler, Gentile, Gonzalez, Koppell, Liu, Martinez, Nelson, Palma, Stewart, Weprin, Katz, Sears, Garodnick, Felder, Gennaro, Seabrook and White, Jr.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to enforcement against cabarets, dance clubs and certain places of public assembly that use security personnel and to include in the nuisance abatement law certain violations of the alcoholic beverage control law and the administrative code.

Be it enacted by the Council as follows:

Section 1. Subdivisions (l) and (m) of section 7-703 of the administrative code of the city of New York are amended, and a new subdivision (n), is added, to read as follows:

(l) Any building, erection or place, including one- or two-family dwellings, wherein there is occurring a criminal nuisance as defined in section 240.45 of the penal law; [and]

(m) Any building, erection or place, including one- or two-family dwellings, wherein, within the period of one year prior to the commencement of an action under this chapter, there have occurred two or more violations on the part of the lessees, owners, operators, or occupants, of [the provisions of] *one or any combination of the following provisions:* sections 165.40, 165.45, 165.50, 170.65, 170.70[, and] or 175.10 of the penal law or section [415-a] four hundred fifteen-a of the vehicle and traffic law[.] ; *and*

(n) *Any building, erection or place, including one-or two-family dwellings, in which a security guard, as defined in subdivision six of section eighty nine-f of the general business law, is employed in violation of one or more of the following provisions: the alcoholic beverage control law or sections 20-360.1 or 27-525.1 of this code.*

§ 2. Subdivision (a) of section 7-704 of the administrative code of the city of New York is amended to read as follows:

(a) The corporation counsel shall bring and maintain a civil proceeding in the name of the city in the supreme court of the county in which the building, erection or place is located to permanently enjoin the public nuisances, defined in subdivisions (a), (b), (d), (e), (f), (g), (h), (i), (j), (k), (l), [and (m)] *(m), and (n)* of section 7-703 of this chapter, in the manner provided in subchapter two of this chapter.

§ 3. Section 7-705 of the administrative code of the city of New York is amended to read as follows:

§ 7-705 Applicability. This subchapter shall be applicable to the public nuisances defined in subdivisions (a), (d), (e), (f), (g), (h), (i), (j), (k), [(l) and (m)] *(l), (m), and (n)* of section 7-703 of this chapter.

§4. Section 20-359 of the administrative code of the city of New York, as amended by local law number 34 for the year 1986, is amended by adding a new subdivision 7 to read as follows:

7. "Security guard." A person as defined by subdivision six of section eighty nine-f of the general business law. There shall be a rebuttable presumption that a person employed or whose services are retained at a public dance hall or cabaret whose job functions include (1) the monitoring or guarding of the entrance or exit of such public dance hall or cabaret to manage ingress and egress to such public dance hall or cabaret for security purposes during the hours of operation of such establishment and/or (2) protection of such public dance hall or cabaret from disorderly or other unlawful conduct by such patrons is a security guard, provided, however, that such rebuttable presumption shall not apply to the owner of the public dance hall or cabaret.

§5. Subchapter 20 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-360.1 to read as follows:

§20-360.1 Security guards in public dance halls or cabarets. a. It shall be a violation of this subchapter for any person to conduct, maintain or operate a public dance hall or cabaret that employs or retains the services of one or more security guards without complying with the provisions of article 7-A of the general business law.

b. A public dance hall or cabaret that employs or retains the services of one or more security guards shall maintain and make available during all hours of operation, in accordance with rules promulgated by the department, proof that each such security guard is validly registered pursuant to article 7-A of the general business law.

c. A public dance hall or cabaret shall maintain a roster of all security guards working at any given time when such public dance hall or cabaret is open to the public, and shall require each security guard to maintain on his or her person proof of registration at all times when on the premises.

d. The enforcement agency shall report any violation of the provisions of this section to the state liquor authority if the licensee holds a license pursuant to the alcoholic beverage control law.

§6. Section 20-369 of the administrative code of the city of New York, as amended by local law number 34 for the year 1986, is amended by relettering subdivision b as subdivision c and adding a new subdivision b to read as follows:

b. The commissioner may suspend or revoke a cabaret or public dance hall license if the licensee violates the requirements of section 20-360.1 of this subchapter, provided, however, that the commissioner shall suspend or revoke a cabaret or public dance hall license upon the third violation by the licensee within two years of the first violation.

§7. Section 27-525.1 of the administrative code of the city of New York, as added by local law number 23 for the year 1990, is amended by adding five new subdivisions, e, f, g, h, and i to read as follows:

e. In the case of a permittee that is an establishment that offers for sale food and/or beverages for on-premises consumption, but not including establishments operated by a not-for-profit corporation, and employs or uses the services of a security guard, as that term is defined in subdivision six of section eighty nine-f of the general business law, such permittee shall comply with the provisions of article 7-A of the general business law, shall obtain proof that such security guard is registered pursuant to article 7-A of the general business law, shall maintain such proof in a readily available location, in accordance with rules promulgated by the commissioner during all hours in which such place of assembly is open to the public, shall maintain a roster of all security guards working at any given time when such place of assembly is

open to the public, and shall require each security guard to maintain on his or her person proof of registration at all times when on the premises.

f. For purposes of this section, there shall be a rebuttable presumption that a person employed or whose services are retained at a place of assembly whose job functions include (1) the monitoring or guarding of the entrance or exit of such place of assembly to manage ingress and egress to such place of assembly for security purposes during the hours of operation of such establishment and/or (2) protection of such place of assembly from disorderly or other unlawful conduct by such patrons is a security guard provided, however, that such rebuttable presumption shall not apply to the owner of such establishment as described in subdivision e of this section that has received a place of assembly permit.

g. Notwithstanding any provision of this chapter, only the permittee shall be liable for violations of this section that relate to a permittee's obligations regarding security guards.

h. In addition to employees of the department, employees of the police department and the department of consumer affairs shall have the authority to enforce the provisions of this section regarding security guards.

i. The enforcement agency shall report any violation of the provisions of this section relating to security guards to the state liquor authority if the permittee holds a license pursuant to the alcoholic beverage control law.

§8. Severability. If any subdivision, sentence, clause, phrase or other portion of the local law that added this chapter is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this chapter, which remaining portions shall remain in full force and effect.

§9. This local law shall take effect ninety days after its enactment; provided that the relevant city agencies shall take all necessary steps, including but not limited to the promulgation of rules, to ensure the prompt implementation of this local law upon its effective date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s:

I hereby certify that the foregoing is a true copy of a local law of the City of New York, passed by the Council on August 16, 2006 and approved by the Mayor on August 23, 2006.

VICTOR L. ROBLES, City Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed Local Law (Local Law 35 of 2006, Council Int. No 366-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on August 16, 2006:
49 for, 0 against, 0 not voting.

Was signed by the Mayor on August 23, 2006.

Was returned to the City Clerk on August 23, 2006.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel