

Int. No. 209

By Council Members Abreu, Restler, Hanif, Hudson, Sanchez, Stevens, Won, Schulman, Kagan, Ung, Barron, Ossé, Richardson Jordan, Cabán, Louis, Ayala, Narcisse, Krishnan, Rivera, Williams, Riley, Nurse, Avilés, Marte, Velázquez, Powers, Brannan, Brooks-Powers, Farías, De La Rosa, Menin, Gutiérrez, Gennaro and Paladino (in conjunction with the Queens Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting discrimination on the basis of a person’s height or weight in opportunities of employment, housing, and access to public accommodations

Be it enacted by the Council as follows:

1           Section 1. Section 8-101 of the administrative code of the city of New York, as amended  
2 by local law number 20 for the year 2019, is amended to read as follows:

3           § 8-101 Policy.

4           In the city of New York, with its great cosmopolitan population, there is no greater danger  
5 to the health, morals, safety and welfare of the city and its inhabitants than the existence of groups  
6 prejudiced against one another and antagonistic to each other because of their actual or perceived  
7 differences, including those based on race, color, creed, age, national origin, alienage or citizenship  
8 status, gender, sexual orientation, disability, marital status, partnership status, caregiver status,  
9 sexual and reproductive health decisions, uniformed service, height, weight, any lawful source of  
10 income, status as a victim of domestic violence or status as a victim of sex offenses or stalking,  
11 whether children are, may be or would be residing with a person or conviction or arrest record.  
12 The council hereby finds and declares that prejudice, intolerance, bigotry, and discrimination, bias-  
13 related violence or harassment and disorder occasioned thereby threaten the rights and proper  
14 privileges of its inhabitants and menace the institutions and foundation of a free democratic state.  
15 The council further finds and declares that gender-based harassment threatens the terms, conditions  
16 and privileges of employment. A city agency is hereby created with power to eliminate and prevent

1 discrimination from playing any role in actions relating to employment, public accommodations,  
2 and housing and other real estate, and to take other actions against prejudice, intolerance, bigotry,  
3 discrimination, sexual harassment and bias-related violence or harassment as herein provided; and  
4 the commission established hereunder is hereby given general jurisdiction and power for such  
5 purposes.

6 § 2. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section 8-107 of the administrative  
7 code of the city of New York, as amended by local law number 20 for the year 2019, are amended  
8 to read as follows:

9 1. Employment. It shall be an unlawful discriminatory practice:

10 (a) For an employer or an employee or agent thereof, because of the actual or perceived  
11 age, race, creed, color, national origin, gender, disability, marital status, partnership status,  
12 caregiver status, sexual and reproductive health decisions, sexual orientation, uniformed service,  
13 height, weight or alienage or citizenship status of any person:

14 (1) To represent that any employment or position is not available when in fact it is  
15 available;

16 (2) To refuse to hire or employ or to bar or to discharge from employment such person; or

17 (3) To discriminate against such person in compensation or in terms, conditions or  
18 privileges of employment.

19 (b) For an employment agency or an employee or agent thereof to discriminate against any  
20 person because of such person's actual or perceived age, race, creed, color, national origin, gender,  
21 disability, marital status, partnership status, caregiver status, sexual and reproductive health  
22 decisions, sexual orientation, uniformed service, height, weight or alienage or citizenship status in  
23 receiving, classifying, disposing or otherwise acting upon applications for its services, including

1 by representing to such person that any employment or position is not available when in fact it is  
2 available, or in referring an applicant or applicants for its services to an employer or employers.

3 (c) For a labor organization or an employee or agent thereof, because of the actual or  
4 perceived age, race, creed, color, national origin, gender, disability, marital status, partnership  
5 status, caregiver status, sexual and reproductive health decisions, sexual orientation, uniformed  
6 service, height, weight or alienage or citizenship status of any person, to exclude or to expel from  
7 its membership such person, to represent that membership is not available when it is in fact  
8 available, or to discriminate in any way against any of its members or against any employer or any  
9 person employed by an employer.

10 (d) For any employer, labor organization or employment agency or an employee or agent  
11 thereof to declare, print or circulate or cause to be declared, printed or circulated any statement,  
12 advertisement or publication, or to use any form of application for employment or to make any  
13 inquiry in connection with prospective employment, which expresses, directly or indirectly, any  
14 limitation, specification or discrimination as to age, race, creed, color, national origin, gender,  
15 disability, marital status, partnership status, caregiver status, sexual and reproductive health  
16 decisions, sexual orientation, uniformed service, height, weight or alienage or citizenship status,  
17 or any intent to make any such limitation, specification or discrimination.

18 § 3. Subdivision 1 of section 8-107 of the administrative code of the city of New York is  
19 amended by adding new paragraphs g and h to read as follows:

20 (g) Bona fide occupational qualification” (1) As used in this subdivision, the term “bona  
21 fide occupational qualification” means only those vocational qualifications that are reasonably  
22 necessary to the normal operation of the particular business, enterprise, or apprentice or other  
23 training program.

1           (2) Notwithstanding any other provision of this subdivision and subdivision 2 of this  
2 section, it shall not be an unlawful employment practice for an employer to hire and employ  
3 employees, for an employment agency to classify, or refer for employment any individual, for a  
4 labor organization to classify its membership or to classify or refer for employment any individual,  
5 or for an employer, labor organization, or joint labor management committee controlling  
6 apprenticeship or other training or retraining programs to admit or employ any individual in any  
7 such program, based on height or weight requirements in those certain instances where height or  
8 weight is a bona fide occupational qualification.

9           (3) If a covered entity asserts that an otherwise unlawful practice is justified as a  
10 permissible bona fide occupational qualification, that party shall have the burden of proving:

11           (A) That the alleged discriminatory practice is in fact a necessary result of a bona fide  
12 occupational qualification; and

13           (B) That there exists no less discriminatory means of satisfying the occupational  
14 qualification.

15           (h) Nothing in this subdivision shall be interpreted or applied so as to create any  
16 requirement, power, or duty in conflict with any federal or state law.

17           § 4. Paragraphs b, c, and d of subdivision 2 of section 8-107 of the administrative code of  
18 the city of New York, as amended by local law number 20 for the year 2019, is amended to read  
19 as follows:

20           (b) To deny to or withhold from any person because of such person's actual or perceived  
21 race, creed, color, national origin, gender, age, disability, marital status, partnership status, sexual  
22 and reproductive health decisions, sexual orientation, uniformed service, height, weight, alienage  
23 or citizenship status or status as a victim of domestic violence or as a victim of sex offenses or

1 stalking the right to be admitted to or participate in a guidance program, an apprentice training  
2 program, on-the-job training program, or other occupational training or retraining program, or to  
3 represent that such program is not available when in fact it is available.

4 (c) To discriminate against any person in such person's pursuit of such program or to  
5 discriminate against such a person in the terms, conditions or privileges of such program because  
6 of actual or perceived race, creed, color, national origin, gender, age, disability, marital status,  
7 partnership status, sexual and reproductive health decisions, sexual orientation, uniformed service,  
8 height, weight, alienage or citizenship status or status as a victim of domestic violence or as a  
9 victim of sex offenses or stalking.

10 (d) To declare, print or circulate or cause to be declared, printed or circulated any statement,  
11 advertisement or publication, or to use any form of application for such program or to make any  
12 inquiry in connection with such program which expresses, directly or indirectly, any limitation,  
13 specification or discrimination as to race, creed, color, national origin, gender, age, disability,  
14 marital status, partnership status, sexual and reproductive health decisions, sexual orientation,  
15 uniformed service, height, weight, alienage or citizenship status or status as a victim of domestic  
16 violence or as a victim of sex offenses or stalking, or any intent to make any such limitation,  
17 specification or discrimination.

18 § 5. Paragraph a of subdivision 4 of section 8-107 of the administrative code of the city of  
19 New York, as amended by local law number 119 for the year 2017, is amended to read as follows:

20 a. It shall be an unlawful discriminatory practice for any person who is the owner,  
21 franchisor, franchisee, lessor, lessee, proprietor, manager, superintendent, agent or employee of  
22 any place or provider of public accommodation:

1           1. Because of any person's actual or perceived race, creed, color, national origin, age,  
2 gender, disability, marital status, partnership status, sexual orientation, uniformed service, height,  
3 weight or alienage or citizenship status, directly or indirectly:

4           (a) To refuse, withhold from or deny to such person the full and equal enjoyment, on equal  
5 terms and conditions, of any of the accommodations, advantages, services, facilities or privileges  
6 of the place or provider of public accommodation; or

7           (b) To represent to any person that any accommodation, advantage, facility or privilege of  
8 any such place or provider of public accommodation is not available when in fact it is available;  
9 or

10          2. Directly or indirectly to make any declaration, publish, circulate, issue, display, post or  
11 mail any written or printed communication, notice or advertisement, to the effect that:

12          (a) Full and equal enjoyment, on equal terms and conditions, of any of the  
13 accommodations, advantages, facilities and privileges of any such place or provider of public  
14 accommodation shall be refused, withheld from or denied to any person on account of race, creed,  
15 color, national origin, age, gender, disability, marital status, partnership status, sexual orientation,  
16 uniformed service, height, weight or alienage or citizenship status; or

17          (b) The patronage or custom of any person is unwelcome, objectionable, not acceptable,  
18 undesired or unsolicited because of such person's actual or perceived race, creed, color, national  
19 origin, age, gender, disability, marital status, partnership status, sexual orientation, uniformed  
20 service, height, weight or alienage or citizenship status.

21          § 6. Subdivision 4 of section 8-107 of the administrative code of the city of New York, is  
22 amended by adding a new paragraph g, to read as follows:

1           g. The provisions of this subdivision shall not apply, with respect to height or weight, to  
2 places or providers of public accommodation where the commission grants an exemption based  
3 on bona fide considerations of public health and safety.

4           § 7. Subparagraphs 1 and 2 of paragraph a of subdivision 5 of section 8-107 of the  
5 administrative code of the city of New York, as amended by local law number 119 for the year  
6 2017, is amended to read as follows:

7           (a) Housing accommodations. It shall be an unlawful discriminatory practice for the  
8 owner, lessor, lessee, sublessee, assignee, or managing agent of, or other person having the right  
9 to sell, rent or lease or approve the sale, rental or lease of a housing accommodation, constructed  
10 or to be constructed, or an interest therein, or any agent or employee thereof:

11           (1) Because of the actual or perceived race, creed, color, national origin, gender, age,  
12 disability, sexual orientation, uniformed service, height, weight, marital status, partnership status,  
13 or alienage or citizenship status of any person or group of persons, or because of any lawful source  
14 of income of such person or persons, or because children are, may be or would be residing with  
15 such person or persons:

16           (a) To refuse to sell, rent, lease, approve the sale, rental or lease or otherwise deny to or  
17 withhold from any such person or group of persons such a housing accommodation or an interest  
18 therein;

19           (b) To discriminate against any such person or persons in the terms, conditions or privileges  
20 of the sale, rental or lease of any such housing accommodation or an interest therein or in the  
21 furnishing of facilities or services in connection therewith; or

22           (c) To represent to such person or persons that any housing accommodation or an interest  
23 therein is not available for inspection, sale, rental or lease when in fact it is available to such person.

1 (2) To declare, print or circulate or cause to be declared, printed or circulated any statement,  
2 advertisement or publication, or to use any form of application for the purchase, rental or lease of  
3 such a housing accommodation or an interest therein or to make any record or inquiry in  
4 conjunction with the prospective purchase, rental or lease of such a housing accommodation or an  
5 interest therein which expresses, directly or indirectly, any limitation, specification or  
6 discrimination as to race, creed, color, national origin, gender, age, disability, sexual orientation,  
7 uniformed service, height, weight, marital status, partnership status, or alienage or citizenship  
8 status, or any lawful source of income, or whether children are, may be, or would be residing with  
9 a person, or any intent to make such limitation, specification or discrimination.

10 § 8. Section 23-1201 of the administrative code of the city of New York, as added by  
11 local law number 247 for the year 2017, is amended by amending the definition of “identifying  
12 information” to read as follows:

13 Identifying information. The term "identifying information" means any information  
14 obtained by or on behalf of the city that may be used on its own or with other information to  
15 identify or locate an individual, including, but not limited to: name, sexual orientation, gender  
16 identity, race, marital or partnership status, status as a victim of domestic violence or sexual  
17 assault, status as a crime victim or witness, citizenship or immigration status, eligibility for or  
18 receipt of public assistance or city services, all information obtained from an individual’s income  
19 tax records, information obtained from any surveillance system operated by, for the benefit of, or  
20 at the direction of the police department, motor vehicle information or license plate number,  
21 biometrics such as fingerprints and photographs, height, weight, languages spoken, religion,  
22 nationality, country of origin, place of birth, arrest record or criminal conviction, employment  
23 status, employer information, current and previous home and work addresses, contact information



1 such as phone number and email address, information concerning social media accounts, date  
2 and/or time of release from the custody of the administration for children’s services, the  
3 department of correction, or the police department, any scheduled court appearances, or any  
4 scheduled appointments with any employee, contractor, or subcontractor.

5 § 9. Subparagraph f-5 of paragraph 48 of subdivision a of section 27-2004 of the  
6 administrative code of the city of New York, as added by local law number 48 for the year 2018,  
7 is amended to read as follows:

8 f-5. threatening any person lawfully entitled to occupancy of such dwelling unit based on  
9 such person's actual or perceived age, race, creed, color, national origin, gender, disability, marital  
10 status, partnership status, caregiver status, uniformed service, height, weight, sexual orientation,  
11 alienage or citizenship status, status as a victim of domestic violence, status as a victim of sex  
12 offenses or stalking, lawful source of income or because children are, may be or would be residing  
13 in such dwelling unit, as such terms are defined in sections 8-102 and 8-107.1 of the code;

14 § 10. This local law takes effect 180 days after it becomes law.

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