

N.J.A.C. 12:101

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 55 No. 17,
September 5, 2023

***NJ - New Jersey Administrative Code > TITLE 12. LABOR AND WORKFORCE DEVELOPMENT >
CHAPTER 101. SAFETY STANDARDS FOR HOTEL EMPLOYEES***

Title 12, Chapter 101 -- Chapter Notes

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 29:4-12.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2023 d.109, effective September 18, 2023.

See: 55 N.J.R. 1137(a), 55 N.J.R. 2012(a).

CHAPTER HISTORICAL NOTE:

All provisions of this chapter were adopted by the Commissioner of Labor and Industry, pursuant to authority delegated at N.J.S.A. 34:8A et seq., and were filed and became effective January 1, 1970.

As of April 1, 1975, Joseph A. Hoffman, Commissioner of Labor and Industry, announced the withdrawal of the New Jersey State Plan for Occupational Safety and Health and thereupon jurisdiction vested fully with the United States Department of Labor for the regulation of occupational safety and health under the Federal Occupational Safety and Health Act of 1970 (OSHA; 29 U.S.C., Section 651 et seq.; USPL 91-596).

Therefore, this chapter became ineffective as of April 1, 1975 (R.1975 d.101, filed and effective April 16, 1975). See: 7 N.J.R. 231(a).

These rules were repealed by R.1978 d.288, eff. August 16, 1978. See: 10 N.J.R. 258(a), 10 N.J.R. 400(d).

Chapter 101, Safety Standards for Hotel Employees, was adopted as new rules by R.2023 d.109, effective September 18, 2023. See: Source and Effective Date.

NEW JERSEY ADMINISTRATIVE CODE

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N.J.A.C. 12:101-1.1

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NJ - New Jersey Administrative Code > TITLE 12. LABOR AND WORKFORCE DEVELOPMENT > CHAPTER 101. SAFETY STANDARDS FOR HOTEL EMPLOYEES > SUBCHAPTER 1. GENERAL PROVISIONS

§ 12:101-1.1 Purpose and scope

(a) The purpose of this chapter is to implement N.J.S.A. 29:4-9 through 12, which requires, among other things, that hotel employers in the hospitality industry provide hotel employees with panic devices for safety purposes, in order to protect such workers from sexual assault and other violent acts.

(b) This chapter applies to "hotel employers" and "hotel employees."

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N.J.A.C. 12:101-2.1

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§ 12:101-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means N.J.S.A. 29:4-9 through 12.

"Commissioner" means the Commissioner of the Department of Labor and Workforce Development, or his or her designee.

"Department" means the Department of Labor and Workforce Development.

"Guest room" means any room made available by a hotel for overnight occupancy by guests.

"Hotel" means any hotel, inn, boarding house, motel, or other establishment whose proprietor offers and accepts payment for rooms, sleeping accommodations, or board and lodging, and retains the right of access to, and control of, the premises that are let, which contains at least 100 guest rooms.

"Hotel employee" or "employee" means any natural person who works full-time or part-time performing housekeeping or room service duties at a hotel for, or pursuant to, the direction of the hotel employer or any subcontractor of the hotel employer for wages or salary or remuneration of any type pursuant to a contract or subcontract of employment.

"Hotel employer" or "employer" mean any person, including a corporate officer or executive, who directly or indirectly or through an agent or any other person, including through the services of a temporary staffing agency, employs or exercises control over the wages, hours, or working conditions of any person employed in furtherance of the hotel's provision of lodging and other related services for the public.

"Large font" means at least 14-point font.

"Panic device" means a two-way radio or other electronic device that is kept on an employee's person when the employee is in a guest room, that permits an employee to communicate with, or otherwise effectively summon immediate on-scene assistance from, a security officer, manager or supervisor, or other appropriate hotel staff member.

N.J.A.C. 12:101-3.1

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§ 12:101-3.1 Provision and use of panic device

- (a) A hotel employer must provide a panic device to each hotel employee assigned to work in a guest room without any other employees present.
- (b) The panic device at (a) above must be provided by the hotel employer at no cost to the hotel employee.
- (c) A hotel employee may use the panic device if the employee believes there is an ongoing crime, or immediate threat of assault or harassment, or other emergency in the employee's presence.
- (d) The hotel employee must be permitted, without retaliation by the hotel employer, to cease work and leave the immediate area of perceived danger or inappropriate conduct to await the arrival of assistance.
- (e) This section shall not apply if the terms of a collective bargaining agreement address the issuance of panic devices to hotel employees or otherwise address safety and reporting procedures for hotel employees working in guest rooms without any other employees present.
- (f) Upon a hotel employee activating a panic device, an appropriate staff member of the hotel, manager or supervisor, or security officer shall respond promptly to the location of the hotel employee.

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N.J.A.C. 12:101-3.2

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§ 12:101-3.2 Additional safety responsibilities of the hotel employer

(a) A hotel employer must do the following:

1. Keep a record of the accusations it receives that a guest has committed an act of violence, including sexual assault, sexual harassment, or other inappropriate conduct toward a hotel employee, and maintain the name of the guest so accused on the list for a period of five years from the date of the incident;
2. Report any incident involving alleged criminal conduct by a guest or other person to the appropriate law enforcement agency, so that the law enforcement agency may make a determination as to whether to pursue criminal charges and cooperate with any investigation undertaken by the law enforcement agency;
3. Notify hotel employees who are assigned to housekeeping or room service duties of the room in which an alleged incident occurred of the presence and location of any guest named on the list pursuant to (a)1 above;
4. Provide hotel employees, other than the hotel employee who activated the panic device, the option of either servicing the guest room of a guest on the list with a partner hotel employee or opting out of servicing the room for the duration of the guest's stay at the hotel;
5. Ensure that the hotel employee who activated the panic device is immediately reassigned to a different work area away from the guest room of the guest for the duration of the guest's stay at the hotel;
6. Develop and maintain a program, which may include written information, to educate hotel employees regarding the use of panic devices and the rights of hotel employees in the event that they activate their devices, and to encourage hotel employees to activate panic devices, when appropriate; and
7. Advise hotel guests using one or both of the following methods that the hotel provides panic devices to hotel employees:
 - i. Require hotel guests to acknowledge the policy as part of the hotel terms and conditions upon checking in to the hotel; or
 - ii. Place signs on the interior of guest room doors in a prominent location and in large font, detailing the panic device policy and the rights of hotel employees.

(b) If an accused guest is convicted of a crime in connection with an incident brought to the attention of the hotel employer by the pressing of a panic device or is otherwise reported by a hotel employee, the hotel may decline to provide occupancy to the guest.

§ 12:101-3.2 Additional safety responsibilities of the hotel employer

(c) Following an incident where a hotel employee uses their panic device, employers are encouraged to refer employee(s) to the Department of Labor and Workforce Development website, <https://www.nj.gov/labor/worker-protections/myworkrights/domesticviolence.shtml#resources>, to access victim support services.

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N.J.A.C. 12:101-4.1

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§ 12:101-4.1 Enforcement

The Commissioner and his or her authorized representatives shall enforce and administer the Act and this chapter, and the Commissioner and his or her authorized representatives are empowered to investigate alleged violations of the Act.

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N.J.A.C. 12:101-4.2

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§ 12:101-4.2 Inspection

(a) The Commissioner and his or her authorized representatives are empowered to enter and inspect such places of business, question such employees and investigate such facts, conditions, or matters, as they may deem appropriate to determine whether any person has violated any provision of the Act or this chapter, or which may aid in the enforcement of the provisions of the Act or this chapter, including, but not limited to, demanding production, upon request, by any hotel employer of any or all of the records required to be kept pursuant to the Act or this chapter.

(b) The Commissioner and his or her authorized representatives shall have the power to administer oaths and examine witnesses under oath, issue subpoenas, compel the attendance of witnesses, and the production of papers, books, records, and testimony, and to take depositions and affidavits in any proceeding before the Commissioner.

(c) If a person fails to comply with any subpoena lawfully issued, or on the refusal of any witness to testify to any matter that he or she may be lawfully questioned, it shall be the duty of the Superior Court, on application by the Commissioner, to compel obedience by proceedings for contempt, as in the case of disobedience with the requirements of a subpoena issued from such court or a refusal to testify in such court.

N.J.A.C. 12:101-5.1

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§ 12:101-5.1 Penalties

(a) When it is determined by the Commissioner that a hotel employer has violated any provision of the Act or this chapter, the Commissioner may assess and collect administrative penalties in the amounts that follow:

1. First violation -- not more than \$ 5,000.
2. Second and subsequent violations -- not more than \$ 10,000.

(b) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification of the violation, the amount of the penalty, and an opportunity to request a formal hearing.

(c) In assessing an administrative penalty pursuant to this chapter, the Commissioner shall consider the following factors, where applicable, in determining what constitutes an appropriate penalty for the particular violation(s):

1. The seriousness of the violation;
2. The past history of previous violations by the employer;
3. The good faith of the employer;
4. The size of the employer's business; and
5. Any other factors that the Commissioner deems to be appropriate in determining the amount of penalty assessed.

N.J.A.C. 12:101-5.2

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§ 12:101-5.2 Hearings

- (a) When the Commissioner assesses an administrative penalty pursuant to N.J.A.C. 12:101-5.1, the employer shall have the right to request a hearing pursuant to (b) below.
- (b) A request for a formal hearing must be received within 15 calendar days following receipt of the notice of the penalty assessment
- (c) No administrative penalty shall be levied pursuant to this chapter, unless the alleged violator is provided with:
1. A notification of the violation;
 2. The amount of the penalty to be imposed; and
 3. An opportunity to request a formal hearing.
- (d) If a hearing is not requested within the 15 calendar days following service, the notice of violation and penalty shall become a final order of the Commissioner for the amount of the penalty indicated in the notice. Such amount may be collected by the Department pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.
- (e) All hearing requests shall be deemed to automatically include a request for a settlement conference with the Department, which shall be scheduled and conducted by the Department within 30 days of the request for a hearing, if the Department determines that a settlement conference would be productive and useful under the circumstances. The settlement conference may be conducted in-person or electronically, as determined by the Department to accommodate the needs of both parties.
- (f) If a settlement is achieved, the alleged violator shall pay the agreed upon settlement amount in accordance with (g) below. If a settlement conference fails to produce a settlement or did not occur, the request for a hearing shall be transmitted to the Office of Administrative Law (OAL) for a hearing to be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., in accordance with the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.
- (g) Payment of the penalty shall be due when the final agency determination is issued, when notification becomes the final decision because no appeal has been filed, or the agreed upon date when payment is due pursuant to a settlement achieved at a settlement conference. All payments shall be made payable to the Department of Labor and Workforce Development in the form of a certified check or money order, or any other form that the Department deems suitable.