



Julie A. Rishel

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*Legislative Service Commission*

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**Sens. Schaffer, Kearney, Stivers, Amstutz, Carey, Harris, Mason, Mumper, Sawyer, Seitz, Spada, Wilson, Padgett**

**Reps. Hughes, Yuko, Szollosi, Slesnick, Bacon, Boyd, Celeste, Chandler, Combs, Domenick, Dyer, Evans, Flowers, Gardner, Gerberry, Goyal, J. Hagan, Heard, Letson, Luckie, Mallory, J. McGregor, Oelslager, Patton, Sayre**

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**ACT SUMMARY**

- Changes the title of the Office of Fire Marshal to the Office of *State* Fire Marshal and changes references to the Fire Marshal in the Hotel Law to the State Fire Marshal ("SFM").
- Allows guests to stay in a transient hotel for a continuous period of 270 days or less if the hotel satisfies the act's requirements regarding fire alarm and detection systems and the cooking devices and quantity of combustible materials allowed in such a room.
- Allows 40% of the transient sleeping rooms in a transient hotel to be used for guest stays lasting for a continuous period of 270 days or less and requires the transient hotel to designate those by room number and to submit a list of those rooms to the SFM.
- Requires a transient hotel that wishes to allow guests to stay for a continuous period of 270 days or less to submit the hotel's plans for a fire alarm and detection system to both the SFM and the building official with jurisdiction over the hotel, and specifies procedures regarding the approval of those plans.
- Specifies requirements for all fire alarm and detection systems and requires components to be installed in accordance with the building and

fire code provisions in existence and applicable to such installations at the time the owner receives approval for the plans.

- Specifies requirements for hotels constructed on or after the act's effective date regarding electrical components that are in addition to the other requirements specified in the act.
- Eliminates the 31-day minimum and one-year maximum stay period applicable to extended stay hotels.
- Changes the requirements for a facility constructed or altered after the act's effective date to be considered and licensed as an extended stay hotel or an SRO (Single Room Occupancy) facility.
- Restricts an owner of an extended stay hotel whose license has been revoked from operating that structure or allowing public use of that structure until and unless the SFM determines that it is safe for that structure to be operated.
- Requires any type of hotel to have at least one bed that is suitable for use with a portable lift provided by a guest in 25% of the total number of rooms that the hotel is required to hold out as accessible rooms or suites.
- Specifies requirements for those types of beds described in the dot point immediately above and timelines for compliance, and requires the Ohio Civil Rights Commission to enforce these requirements pursuant to the act.
- Allows the SFM to fine a licensee in accordance with the act's requirements in an amount of (1) for safety violations, \$250 per violation not to exceed \$1,000 per day, and (2) for all other violations, \$10 per violation.
- Expands the list of activities regarding hotels in which a person cannot engage without a license and prohibits any person from advertising, conducting, maintaining, or operating a licensed hotel or licensed SRO facility in a manner that is inconsistent with the requirements of the Hotel Law.

- Requires a licensee to renew the licensee's license in accordance with rules adopted by the SFM instead of the standard license renewal procedure as required under former law.
- Requires a licensee that wishes to transfer the licensee's license to another person pursuant to continuing law to have the facility inspected by the SFM.
- Makes changes to the enforcement and disciplinary procedures taken against a licensee that are specified in continuing law.
- Specifies that the length of a license suspension cannot be more than 180 days and specifies that a suspended license automatically is revoked without further action taken by the SFM if the violation for which the license was suspended is not corrected during the suspension period.
- Prohibits a licensee whose license is suspended from operating the facility as a hotel or SRO facility while the license is suspended.
- Prohibits the SFM, if a person's license has been revoked, from granting that person a new license unless the requirements specified in the act have been satisfied.
- Requires a health official who finds a violation of the sanitation requirements in the Hotel Law to notify the SFM, who may take any action permitted under the Hotel Law that the SFM determines is appropriate.
- Allows the SFM to file a complaint with the Attorney General or, as under continuing law, a county prosecutor, or both, regarding enforcement actions to remedy violations of the Hotel Law and specifies procedures for filing those complaints.
- Specifies that nothing in the Hotel Law can be construed to limit the ability of the SFM to take any action permitted under the Fire Marshal and Fire Safety Law regarding dangerous conditions against a hotel or SRO facility in addition to or instead of taking action against the hotel or SRO facility under the Hotel Law.
- Makes additional changes to the Hotel Law.

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## CONTENT AND OPERATION

### **Title of the State Fire Marshal**

Under continuing law, the Office of the Fire Marshal is created within the Department of Commerce (sec. 121.04). However, throughout the Revised Code, both the terms "Fire Marshal" and "State Fire Marshal" are used when referring to the Office of the Fire Marshal. The act changes the title of the office to the Office of the *State* Fire Marshal and specifies that if a statute uses the term "fire marshal" it is referring to the State Fire Marshal. The act changes references to the Fire Marshal to State Fire Marshal (hereafter "SFM") throughout the Hotel Law (R.C. Chapter 3731.). (Secs. 1.601, 121.04, 3731.01 to 3731.04, 3731.05, 3731.06, 3731.16, 3731.20, and 3731.21.)

### **Activities that require licensure**

The act expands the list of prohibited activities relating to owning and operating hotels specified in continuing law. Under the act, a person is prohibited from: (1) advertising, conducting, maintaining, or operating any structure as a

hotel or as an SRO facility without a license, (2) operating such a structure that is not equipped in the manner and conditions as required under the Hotel Law, and (3) advertising, conducting, maintaining, or operating a licensed hotel or licensed SRO facility in a manner that is inconsistent with the requirements of the Hotel Law or any rules adopted pursuant to it. Under law unchanged by the act, whoever violates these prohibitions is guilty of a first-degree misdemeanor. The act also specifies that a person must procure the person's license in accordance with the requirements specified in the Hotel Law and the rules adopted pursuant to it. (Secs. 3731.03(A) and (B) and 3731.99.)

### **Changes regarding length of stay allowed at transient hotels**

Continuing law allows transient hotels to offer extended stay temporary residence guest accommodations within any dwelling units or transient sleeping room with dwelling unit features within the structure if such units or sleeping rooms are specifically constructed and approved as also being dwelling units with provisions for living, eating, cooking, sanitation, and sleeping (sec. 3731.04(A)). Notwithstanding the definition of "transient hotel" under continuing law, which specifies that accommodations are offered for pay to guests for a period of 30 days or less, under the act, a transient hotel may allow a guest to stay in a transient sleeping room in the hotel for a continuous period of 270 days or less if all of the following conditions are satisfied:

(1) The transient hotel satisfies the requirements described under "**Fire alarm and detection systems**" and "**Requirements for transient hotels constructed or altered after the act's effective date**" below, as applicable.

(2) Not more than 40% of the transient sleeping rooms in the hotel are used for guests to stay for a continuous period of 270 days or less.

(3) The transient hotel designates a group of transient sleeping rooms, by room number, that will be used during the time period a license is valid for guests to stay for a continuous period of 270 days or less, and submits a list of the rooms the transient hotel so designates to the SFM within:

- 30 days prior to the first day that any guest is allowed to stay in any of those rooms for that extended period of time; and
- Every year with the transient hotel's application to renew the transient hotel's license.

(4) A quantity of combustible materials stored or used in the transient sleeping room does not exceed the amount of combustible materials acceptable for a light hazard occupancy area as defined and used by the SFM in rules the SFM

adopts pursuant to the Fire Marshal and Fire Safety Law (R.C. Chapter 3737.; sec. 3737.82, not in the act).

(5) No cooking devices are stored or used in the transient sleeping room, except for a coffee maker, a microwave oven, or any other similar cooking device that is listed as safe for residential use as defined and used by the SFM in rules the SFM adopts pursuant to continuing law and approved by the fire code official having jurisdiction. (Secs. 3731.04(A) and 3731.041(A).)

The act prohibits a transient hotel from changing the designation of the transient sleeping rooms included in the list the transient hotel submits to the SFM pursuant to (3) above during a license year. If the transient hotel submits a list of designated rooms with the transient hotel's application for renewal in accordance with (3) above and does not change the designation of any rooms included on the previous list the transient hotel submitted, the transient hotel may continue to allow guests to stay in the designated rooms for a continuous period of 270 days or less without having to obtain approval from the SFM. (Sec. 3731.041(B).)

The act specifies that the act's provisions apply to all transient hotels electing to allow the extended stays in addition to all other nonresidential building and fire code provisions applicable to these structures. The act states that nothing in the act can be construed to require a hotel in existence on the act's effective date to install an automatic sprinkler system unless otherwise required by law. (Sec. 3731.041(E).)

### **Fire alarm and detection systems**

A transient hotel that permits transient occupancy for a continuous period of 270 days or less under the act must install, for all portions of the hotel structure that are subject to the requirements of the Hotel Law, and properly maintain, a fire alarm and detection system. The system must be:

(1) Installed in accordance with requirements specified in the state nonresidential building code (hereafter "ONBC") established under rules adopted by the Board of Building Standards pursuant to continuing law;

(2) Approved by the building official having jurisdiction;

(3) Installed in accordance with rules the SFM adopts pursuant to the Fire Marshal and Fire Safety Law; and

(4) Approved by the SFM. (Sec. 3731.041(C).)

At a minimum, a fire alarm and detection system required under the act, as described in the State Fire Code adopted pursuant to the Fire Marshal and Fire

Safety Law, must include the annunciation of any activated initiating device at a constantly attended location from which the structure's fire alarm system is capable of being manually activated. All other fire alarm and detection system components must be installed in accordance with the building and fire code provisions in existence and applicable to such installations at the time the owner receives approval for the plans submitted to the SFM and building official having jurisdiction as described below.

The owner of the transient hotel must submit plans or drawings, specifications, and data prepared for the installation of that system to the building official having jurisdiction over the transient hotel and the SFM for approval. If the owner of the transient hotel is required to install a system, or if the owner of a transient hotel had installed a system that was approved by the building official having jurisdiction prior to the act's effective date and is required to alter that system to comply with the act, the owner must submit those plans or drawings, specifications, and data prior to installing or altering the system. The act prohibits any owner of a transient hotel who is required to install or alter a fire alarm and detection system from installing or altering that system until the plans are approved. If the owner of the transient hotel wishes to allow guest stays for a continuous period of 270 days or less and the owner previously has installed a fire alarm and detection system in that transient hotel that satisfies the act's requirements, the owner must submit those plans prior to allowing guests to stay in the rooms designated pursuant to (3) as described under "**Changes regarding length of stay allowed at transient hotels**" above. Such an owner is prohibited from permitting guests to stay in transient sleeping rooms for a continuous period of 270 days or less until the plans or drawings, specifications, and data are approved.

The act requires the SFM to conduct a review of the plans for all of the fire alarm and detection systems installed in accordance with the act concurrently with the review conducted by the building official having jurisdiction and to conduct that review in accordance with the provisions for such plan reviews as described in the State Fire Code. The SFM must approve or disapprove any plans submitted within 30 days after the date the plans are submitted.

If the SFM determines that such plans and systems meet the requirements of the Hotel Law and the State Fire Code, the SFM, or the SFM's designee, must (1) provide written approval of the submitted plans and (2) sign the certificate of occupancy for the structure incorporating the fire alarm and detection system if it is installed in accordance with the ONBC, the State Fire Code, and the act. The act states that such approvals are the exclusive method permitted by the State Fire Code or any other regulations or codes regarding fire prevention adopted by the legislative authority of a municipal corporation or by a board of township trustees

pursuant to continuing law for approval of the fire alarm and detection system required by the act. (Sec. 3731.041(C).)

**Requirements for transient hotels constructed or altered after the act's effective date**

A transient hotel that is constructed or altered on or after the act's effective date that wishes to allow transient occupancy as described under "**Changes regarding length of stay allowed at transient hotels**" above must (1) comply with all of the act's requirements described under "**Changes regarding length of stay allowed at transient hotels**" and "**Fire alarm and detection systems**" above, (2) satisfy any electrical system requirements for transient occupancy in the transient sleeping rooms to be used for the longer stays, and (3) with respect to the installation and maintenance of electrical power and lighting circuits in the transient sleeping rooms, install and maintain only 20 amp or greater electrical power and lighting circuits that satisfy the requirements of the ONBC. (Sec. 3731.041(D).)

**Extended stay hotels**

**Changes in the requirements to be considered an extended stay hotel**

Former law defined "extended stay hotel" as any structure consisting of one or more buildings, with more than five dwelling units with provisions for living, eating, cooking, sanitation, and sleeping, that is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where *temporary residence* is offered for pay to persons for a minimum stay of more than 30 days and a maximum stay of one year within the dwelling units at the structure, that is approved pursuant to a valid certificate of occupancy issued by the building official having jurisdiction as having all of the required dwelling unit features, and for which such valid certificate of occupancy indicates the specific rooms within the structure that can be used as dwelling units, and that is approved by the Fire Marshal for extended stay *temporary residence* purposes. "Temporary residence" under former law was defined as a dwelling unit accommodation room within a hotel that is used by its occupants for a minimum period of 31 days and a maximum period of one year but is not used as the permanent or principal residence of its occupants. (Sec. 3731.01(A)(3) and (5).)

The act eliminates the 31-day minimum and one-year maximum stay period contained in the definition of extended stay hotel and in the definition of temporary residence (sec. 3731.01(A)(3) and (5)). The act also modifies the requirements for a structure to be considered an extended stay hotel. The act removes the specification that the dwelling units in the structure had to have provisions for living, eating, cooking, sanitation, and sleeping and instead

specifies that the structure must be approved pursuant to a valid certificate of occupancy issued by a building official having jurisdiction as having dwelling units that have both of the following types of features:

(1) The required dwelling unit features for non-transient residence purposes in accordance with the residential group R-2 use and occupancy classification adopted by the Board in the ONBC, or any subsequent classification established by the Board that is substantially similar to that classification;

(2) All of the transient residential occupancy features of a transient hotel in accordance with the residential group R-1 use and occupancy classification adopted by the Board in the ONBC, or any subsequent classification established by the Board that is substantially similar to that classification. (Sec. 3731.01(A)(3).)

Beginning on the act's effective date, the SFM must not issue a new license to operate a facility as an extended stay hotel, and must not renew such a license issued under the act, unless the facility satisfies the requirements to be an extended stay hotel as specified immediately above. Under the act, a structure licensed as an extended stay hotel on the act's effective date may maintain that license by continuing to satisfy the requirements that were applicable to that extended stay hotel at the time the license was issued, unless any of the following events occur regarding that extended stay hotel:

- The owner of the extended stay hotel constructs or alters the hotel.
- The owner of the extended stay hotel surrenders the license issued to that hotel.
- The owner of the extended stay hotel changes the use or occupancy of that hotel.
- The license issued to that extended stay hotel under the Hotel Law is revoked or is not renewed.

If any of the events described immediately above occur, the owner of the structure must comply with the act's requirements to obtain a new license to operate as an extended stay hotel. (Sec. 3731.03(C).)

### **Revoked extended stay hotel licenses**

Under the act, if an extended stay hotel license is revoked by the SFM in accordance with continuing law (see "**Disciplinary actions**" below), the owner of that structure is prohibited from (1) operating that structure in accordance with the

use and occupancy classification for which the structure was approved or in accordance with the license issued under the Hotel Law by the SFM and (2) opening that structure for use by the public until and unless the SFM determines, in accordance with the requirements specified in the ONBC and the State Fire Code, that it is safe for the structure to be operated. If, after the license is revoked, the owner wishes to operate that structure as a hotel, the owner must comply with the requirements described under "**Disciplinary actions**" below for revoked licenses (sec. 3731.03(H)). Under continuing law unchanged by the act, whoever violates this provision is guilty of a first-degree misdemeanor (sec. 3731.99).

### **SRO facilities**

The act specifies new requirements for a structure that is constructed on or after the act's effective date to satisfy to be considered an SRO facility that differ from the requirements specified in continuing law for a structure in existence on that date. Beginning on the act's effective date, the SFM is prohibited from issuing a new license to operate a facility as an SRO facility, and cannot renew such a license, unless the SRO facility is constructed providing individual sleeping rooms for each guest; has, on a per-room or a communal basis within each building to be licensed as an SRO facility, permanent provisions for living, eating, cooking, and sanitation; is constructed in accordance with the requirements specified for SRO facilities and is approved to be an SRO facility by the building official having jurisdiction over that facility. Such an SRO facility must only operate with, and must properly maintain, individual sleeping rooms for each guest and must only operate with, and must properly maintain, on a per-room or communal basis, permanent provisions available to all guests for living, eating, cooking, and sanitation. (Sec. 3731.02(D).)

The act specifies that the requirements to be considered an SRO facility specified under continuing law apply to an SRO facility that holds a license as an SRO facility on the act's effective date unless any of the same types of events described under "**Changes in the requirements to be considered an extended stay hotel**" occur regarding an SRO facility. If any of those events occur, the owner of the structure must comply with the new requirements to be considered an SRO facility described above to obtain a new license to operate as an SRO facility. (Sec. 3731.02(B) and (C).)

### **Portable lifts in hotel rooms**

#### **Background--accessible rooms and suites under federal law**

The federal Americans with Disabilities Act, (42 U.S.C. 12101 et seq., hereafter "ADA") prohibits discrimination against any individual on the basis of disability in the full and equal enjoyment of the goods, services, facilities,

privileges, advantages, or accommodations of any place of "public accommodation" by any person who owns, leases or leases to, or operates a place of public accommodation (42 U.S.C. 12182). A place of "public accommodation," under the ADA, includes an inn, hotel, motel, or other place of lodging if these entities affect commerce, as defined under the ADA, unless an exception applies (42 U.S.C. 12181(7)(a)).

Under regulations adopted by the United States Department of Justice to administer and enforce the ADA, all hotels must provide at least one room or suite that is accessible to a person with disabilities. This type of room or suite is referred to in the regulations as an "accessible sleeping room or suite," and the room or suite must comply with the requirements specified in the regulations (28 C.F.R. Pt. 36, App. A). The regulations require a hotel to have a specified number of accessible sleeping rooms and suites based upon the total number of rooms in the hotel. Additionally, hotels that have 50 or more sleeping rooms or suites must have a certain number of rooms or suites that have showers accessible by wheelchair (referred to as "roll-in showers"), depending upon the total number of rooms or suites in the hotel. The regulations specify requirements for the distribution of accessible sleeping rooms and suites throughout a hotel and requirements that must be satisfied in order for a room or suite to be considered an accessible sleeping room or suite. (28 C.F.R. Pt. 36, App. A.)

#### **Requirements for beds in accessible rooms and suites**

The act requires a hotel to provide at least one bed of a type that is suitable for use with a portable lift that the guest provides in 25% of the total number of rooms that the hotel is required to hold out as accessible sleeping rooms or suites, rounded up to the next whole number. The hotel must satisfy all of the following requirements with respect to that bed:

(1) The space between the underside of at least one of the longest sides of the bed frame and the finished floor must be at least six and one-half inches, must extend a depth of at least 30 inches from the edge of that side of the bed toward the center line of the bed, and must be clear of any obstructions, to provide for clearance for the use of a portable lift.

(2) The side of the bed described in (1) above must be separated by at least 45 inches of space between that side and any obstacle or other major elements of the room, to allow for maneuverability.

(3) Notwithstanding the requirement that the total depth of space described in (1) and (2) above be clear of any obstructions, the act specifies that legs of the bed may protrude into that space. (Sec. 3731.12(E).)

Within 45 days after the act's effective date, a hotel must have at least one room that the hotel holds out as an accessible sleeping room or suite that satisfies the requirements described in (1) and (2) immediately above. Within five years after the act's effective date, or upon completion of the next major renovation of the hotel, whichever occurs first, a hotel must completely satisfy these requirements regarding beds in accessible sleeping rooms. However, the act also specifies that no hotel is required to comply with these requirements if a federal standard for the type of bed described in (1) through (3) above is adopted and becomes effective. (Sec. 3731.12(F).)

Generally, the SFM or the SFM's assistant marshals enforce the Hotel Law. However, the act specifies that a violation of these requirements for hotel beds in accessible rooms and suites is an unlawful discriminatory practice under Ohio's Civil Rights Law (R.C. Chapter 4112.) regarding access to places of public accommodation. A person who is injured by an alleged violation of these provisions regarding hotel beds in accessible rooms and suites may file a complaint with the Ohio Civil Rights Commission in accordance with requirements specified in the Ohio Civil Rights Law (sec. 4112.05, not in the act). The Commission must follow the procedures specified in that law for complaints filed for violations of the prohibition against unlawful discriminatory practices in places of public accommodation regarding that complaint, except, if the Commission determines after a hearing held in accordance with the requirements of the Ohio Civil Rights Law, that a violation has occurred, the Commission must notify the SFM. The SFM, upon receipt of that notice, must take the action the SFM determines necessary against the owner, keeper, or lessee of that hotel in accordance with the requirements specified in the Hotel Law (see "*Procedures for disciplinary actions*" and "*Disciplinary actions*" below). (Secs. 3731.02(A) and 3731.12(G).)

### *Procedures for disciplinary actions*

The act specifies that if the owner, proprietor, or agent is not conducting the hotel or has not equipped the hotel in the manner and condition required by the rules adopted pursuant to the Hotel Law in addition to the requirements specified under the Hotel Law or the State Fire Code, as under continuing law, the owner, proprietor, or agent may be subject to the disciplinary procedures and actions specified in the Hotel Law. The act also specifically requires the SFM to notify the owner, proprietor, or agent of any violations of the Hotel Law, the rules adopted pursuant to it, or the State Fire Code in addition to notifying the owner, proprietor, or agent of any changes or alterations necessary to bring the hotel into compliance, as required under continuing law. (Sec. 3731.05(A)(3).)

Under the act, upon receipt of a notice from the SFM under the Hotel Law or a citation issued by the SFM regarding imminent hazards that is issued pursuant

to the Fire Marshal and Fire Safety Law, the owner, proprietor, or agent in charge of the business receiving the notice or citation must bring the hotel or SRO facility into compliance with the requirements of the Hotel Law, the rules adopted pursuant to it, or the State Fire Code, by making such alterations or changes as may be necessary to put the building and premises in a condition of complete compliance within a reasonable time set by the SFM after being notified by the SFM. The act permits an owner, proprietor, or agent in charge of a hotel or SRO facility to request the SFM to extend the time period the SFM establishes to allow the owner, proprietor, or agent to accomplish such alterations or changes. The SFM may grant that request if the owner, proprietor, or agent is able to demonstrate that a longer time is necessary to make such alterations or changes and that such an extension does not conflict with any conditions imposed by the Board of Building Appeals after a hearing conducted under continuing law. (Sec. 3731.05(B)(1).)

Under the act, any owner, proprietor, or agent, who knowingly fails to bring the hotel or SRO facility into compliance with the requirements of the Hotel Law, the rules adopted pursuant to it, or the State Fire Code, by not making the necessary alterations or changes specified in the notification by the SFM is in violation of the Hotel Law. Under former law, an owner, proprietor, or agent was in violation of the Hotel Law only if the owner, proprietor, or agent knowingly failed to make the necessary alterations or changes specified in the notification by the SFM. (Sec. 3731.05(B)(2).)

The act also specifies that nothing in the Hotel Law can be construed to limit the authority of the SFM to take any action regarding imminent hazards against a hotel or SRO facility that is permitted under the Fire Marshal and Fire Safety Law in addition to or instead of taking action against the hotel or SRO facility, or the license issued to the hotel or SRO facility, under the Hotel Law (sec. 3731.05(C)).

### **Disciplinary actions**

The act specifies that if the SFM *proposes* to deny or otherwise refuse to grant a license to any person or to permit a license already issued to be transferred instead of simply denying or refusing under prior law, or *proposes* to revoke a license, the party aggrieved may appeal that proposal in accordance with the Administrative Procedure Act (sec. 3731.06(B)). The act also specifies that if the SFM takes any action against an owner, proprietor, or agent of a licensed hotel or SRO facility regarding imminent hazards pursuant to the Fire Marshal and Fire Safety Law, the SFM may take action against the license issued to that hotel or SRO facility that is prompted by or is a result of the action taken under the Fire Marshal and Fire Safety Law (sec. 3731.06(F)).

Under the act, if the SFM suspends a hotel or SRO facility license in accordance with the requirements described in continuing law and the Administrative Procedure Act, the SFM must suspend that license for a reasonable period of time as may be necessary to allow the owner, proprietor, or agent of the licensed hotel or SRO facility to reform and correct the violation for which the SFM suspended the license, not to exceed 180 days. The owner, proprietor, or agent of the hotel or SRO facility whose license is suspended must not operate the facility as a hotel or SRO facility and must not open that structure for use by the public during the time period that the license is suspended. If, at the expiration of the suspension period the violation has not been reformed or corrected, the license automatically is revoked without the taking of any action by the SFM. (Sec. 3731.06(C).)

Under the act, an operator, proprietor, or agent of a hotel or SRO facility whose license has been revoked by the SFM in accordance with the requirements described in continuing law and the Administrative Procedure Act may apply for a license in accordance with the requirements to obtain a license under the Hotel Law. The SFM must not issue that operator, proprietor, or agent a new license for a period of one year after the date of revocation, unless the SFM determines that it is appropriate to issue that license at an earlier date. Under the act, the SFM can issue that hotel or SRO facility a new license only if the hotel or SRO facility satisfies the applicable requirements for licensure specified in the Hotel Law and in the rules adopted pursuant to it and the operator, proprietor, or agent has corrected the violation for which the SFM revoked the license. (Sec. 3731.06(D).)

### **Fines**

Continuing law prohibits any person from failing or refusing to comply with the Hotel Law or the State Fire Code. Each day of violation constitutes a separate offense. Under law retained in part by the act, whoever violates this prohibition is fined \$10. (Secs. 3731.99 and 3731.08, not in the act.)

The act specifically permits the SFM to fine licensees in addition to or in lieu of suspending or revoking a licensee's license, and removes the authority of the courts to impose such a fine. If the SFM elects to impose a fine against an owner, proprietor, or agent of a licensed hotel or SRO facility, the SFM must take that action in the same manner the SFM suspends or revokes licenses and in accordance with the Administrative Procedure Act, except that the SFM must not impose that fine until 30 days after the SFM sends the written notice or, if the SFM has given the owner, proprietor, or agent more than 30 days to reform or correct the violation, the expiration of that time period. The SFM may impose a fine against an owner, proprietor, or agent in the following amounts:

- If, in the opinion of the SFM, the violation is a fire safety issue, \$250 per violation, except that the amount of the fine must not exceed \$1,000 per day, regardless of the number of violations.
- For all other violations or the prohibition against violating the Hotel Law or the State Fire Code, a fine of \$10 for each violation.

The SFM must deposit all fines the SFM collects into the State Fire Marshal Fund created under the Fire Marshal and Fire Safety Law. (Secs. 3731.06(A) and (E) and 3731.99(A).)

**Enforcement by health officials, county prosecutors, and the Attorney General**

Under continuing law, the Director of Health has the authority to administer the law relating to sanitation (sec. 3701.03, not in the act). Under the act, if a health official determines that an owner, keeper, or lessee has not complied with the requirements for sanitation specified in the Hotel Law, the health official must notify the SFM, and the SFM may take any action permitted under the Hotel Law that the SFM determines is appropriate (see "Disciplinary procedures" and "Disciplinary actions" above). (Sec. 3731.21(A).)

Former law required the prosecuting attorney of each county, upon complaint of the SFM or other person representing the SFM, to prosecute to termination before any court a proper action or proceeding against any person violating the Hotel Law (sec. 3731.21). The act allows the SFM to file a complaint with the Attorney General, the county prosecutor of the county in which the hotel or structure that is the subject of the complaint is located, or both. Except as otherwise provided below, upon receipt of that complaint, the Attorney General or prosecuting attorney may prosecute to termination before the court of common pleas of the county in which the hotel or structure that is the subject of the complaint is located a proper action or proceeding against any person violating the Hotel Law. (Sec. 3731.21(B)(1).) The act specifies that nothing in the act can be construed to prevent the Attorney General and prosecuting attorney from collaborating on a prosecution (sec. 3731.21(C)).

Under the act, if the SFM elects to file a complaint with both the Attorney General and a county prosecutor, the following circumstances apply, as applicable:

- If both the Attorney General and the county prosecutor determine that the complaint should be prosecuted, the SFM must (1) determine which one of those two entities should proceed with the complaint and request that entity to proceed and (2) notify the entity not chosen of the SFM's determination and request that entity not to proceed with the complaint.

- If one of the entities determines, on the merits of the complaint, not to prosecute the complaint, the SFM must request the other entity not to proceed with the complaint.
- If one of the entities determines, for reasons other than the merits of the complaint, not to prosecute the complaint, the SFM may request the other entity to proceed with the complaint. (Sec. 3731.21(B)(2).)

If the SFM, under the act, elects to file a complaint with either the Attorney General or a county prosecutor, but not both, the following circumstances apply, as applicable:

- If the entity with which the SFM files the complaint determines, for reasons other than the merits of the complaint, not to prosecute the complaint, the SFM may file the complaint with the other entity.
- If the entity with which the SFM files the complaint determines, on the merits of the complaint, not to prosecute the complaint, the SFM is prohibited from filing the complaint with the other entity. (Sec. 3731.21(B)(3).)

### **Renewal of licenses**

Under continuing law, all licenses issued under the Hotel Law expire on December 31 each year. The act requires the SFM to adopt rules establishing requirements to renew a license issued under the Hotel Law and requires a licensee to renew the licensee's license in accordance with those rules instead of according to the standard license renewal procedure as required under former law. (Secs. 3731.02, 3731.03(D), and 4745.01.)

### **License transfers**

Under law largely unchanged by the act, a person who has received a license, upon the sale or disposition of the hotel or SRO facility or its removal to a new location, may, upon obtaining consent of the SFM, have the license transferred. Continuing law prohibits the transfer of a license without the consent of the SFM (sec. 3731.03(A)). The act also requires an inspection to be conducted by the SFM prior to a transfer and prohibits the SFM from unreasonably withholding consent of a transfer. (Sec. 3731.03(E).)

### **Additional changes to the Hotel Law**

Continuing law prohibits any person licensed to maintain and operate a hotel or SRO facility from also maintaining and operating an agricultural labor

camp, apartment house, lodging house, rooming house, or hospital or college dormitory in the same structure as the hotel or SRO facility, unless those camps, houses, or dormitories have been constructed as, and been approved by the building official having jurisdiction and by the SFM as being, a separate building within the hotel or SRO facility structure in accordance with approved building separation rated assemblies (sec. 3731.03(C)). The act adds apartments to the types of facilities that cannot be included in the same structure as is located the licensed hotel or SRO facility unless otherwise approved. Additionally, the act removes the requirement that the SFM approve the alternate facility and specifies that the separate building within the hotel or SRO facility structure must be separated in accordance with the requirements specified in the ONBC or be separated in a manner that satisfies the requirements for occupancy separation specified in that code. The act also requires all hotel and SRO facility uses to continue in accordance with their approval under the license issued by the SFM unless a change in occupancy, as added by the act, or use has been approved by the building official having jurisdiction, as under continuing law, and the SFM has revised the license, as required by the act. (Sec. 3731.03(G).)

Under continuing law, in all municipal corporations where a system of water works and sewerage is maintained for public use, every hotel and SRO facility must be equipped with a sufficient number of suitable water closets for the accommodation of its guests, which water closets must be ventilated and connected by proper plumbing with such sewerage system. The act expands this requirement to apply to all political subdivisions of the state where a system of water works and sewerage is maintained for public use. (Sec. 3731.11.) Under continuing law, the SFM must make such rules as are necessary to carry out the Hotel Law. Under the act, these rules must include, but are not limited to, rules establishing fees for licensure and renewal and for inspections of hotels. (Sec. 3731.02(A).)

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## HISTORY

ACTION	DATE
Introduced	10-04-07
Reported, S. Insurance, Commerce & Labor	12-13-07
Passed Senate (32-0)	01-09-08
Reported, H. Commerce & Labor	05-21-08
Passed House (96-0)	05-28-08
Senate concurred in House amendments (32-0)	05-29-08

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