

Comments of the NYC Hospitality Alliance on Int. 0815-2022 (Menin) and Int. 0491-2022 (Menin) before the NYC Council Committee on Small Business along with the Committee on Governmental Operations on Monday, January 30th at 1:00pm in the Committee Room, City Hall, New York, NY

The NYC Hospitality Alliance (“The Alliance”) is a not-for-profit association serving and representing thousands of restaurants, bars, and nightclubs across the five boroughs, and we submit the following comments on proposed:

- Int. 0815-2022 (Menin), in relation to the rules of construction for unspecified ranges of civil penalties.
- Int. 0491-2022 (Menin), in relation to reducing civil penalties where food service establishments donate leftover food.

First, The Alliance strongly supports Int. 0815-2022. The City of New York has the unfortunate reputation of treating small businesses like an ATM with fines and penalties over multiple mayoral administrations and city councils. While there have been positive efforts made to reduce unnecessary regulatory burdens by reducing fines and allowing warnings and cure periods for certain violations, much more reform is still needed.

Int. 0815-2022 is an example of such needed reform, not only because it is important for small businesses, but because it will help ensure that regulatory agencies follow the legislative intent of laws passed by the City Council. For example, when the City Council passes a law creating a new violation for small businesses the legislation often creates a penalty range with a minimum and maximum fine amount. However, when the law is enacted and sent for agency Rule Making, the agency often ignores the City Council’s intent and schedules the minimum fine amount significantly higher than stated in the law, creating a bigger financial burden for small businesses, and disregarding your legislative intent.

The Alliance recently saw an example of this when an agency’s proposed Rule set a first violation at \$1,500, even though the City Council directed the civil penalty to start at \$500 – a \$1,000 increase! Thankfully, when The Alliance brought this to the attention of the agency during the public comment period, they amended the proposal to correspond with the local law’s minimum fine amount.

Nonetheless, this is not a matter that should be left to whim, and that’s why Int. 0815-2022 is important legislation that The Alliance supports because it’s essential in the City’s effort to structurally reduce unnecessary fines on small businesses. Lastly, we do not know how many established minimum / first time penalties have fines higher than prescribed in local laws, and that’s why it’s very important that Int. 0815-2022 applies retroactively to all existing penalties and that agencies understand that they must amend any existing rules and penalty schedules that do not comply.

We thank Council Member Menin for her leadership on the important bill, along with its supporters and we encourage the Council to pass this legislation ASAP and we urge Mayor Adams to sign it into law.



Second, The Alliance appreciates the intent of Int. 0491-2022 in relation to reducing civil penalties where food service establishments donate leftover food because it encourages businesses to donate food to feed hungry New Yorkers, which is a practice so many restaurants currently engage in. However, we would like to see the bill amended, to instead incentivize restaurants to donate more food by reducing fees for permits and licenses and/or providing other tax incentives.

Our belief is such an amendment will encourage the same desirable behavior, without using fines, which we agree are already too high for small businesses as leverage. Fines should be reduced. Period. Because it's the right thing to do, just as donating left-over food is, but one shouldn't be used to compel the other behavior as it sets a concerning regulatory precedent.

We thank the Chairs, Committees, and Council Members for your consideration of the NYC Hospitality Alliance's comments. If you have questions and/or comments, please contact our executive director Andrew Rigie at arigie@thenycalliance.org.

Respectfully submitted,

NYC Hospitality Alliance