

HOUSE No. 1657**The Commonwealth of Massachusetts**

PRESENTED BY:

Adrian C. Madaro

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act concerning protection for hotel workers from sexual assault.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>1/18/2019</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>1/31/2019</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>1/31/2019</i>
<i>Daniel R. Cullinane</i>	<i>12th Suffolk</i>	<i>2/1/2019</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>2/1/2019</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>2/1/2019</i>

HOUSE No. 1657

By Mr. Madaro of Boston, a petition (accompanied by bill, House, No. 1657) of Adrian C. Madaro and others relative to the protection for hotel workers from sexual assault. Labor and Workforce Development.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act concerning protection for hotel workers from sexual assault.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 149 of the General Laws is hereby amended by inserting after
2 section 105D the following section:

3 Section 105E. (a) This section shall be known and may be cited as the “Safer Hotels for
4 Workers Act.”

5 (b) As used in this section, the following words shall, unless the context clearly requires
6 otherwise, have the following meanings:--

7 (1) “Employee” means any natural person who works full-time or part-time at a hotel for
8 or under the direction of the hotel employer or any subcontractor of the hotel employer for
9 furtherance of the hotel’s provision of lodging and other related services for the public;

10 (2) “Guest” means any invitee to a hotel, including registered guests, persons occupying
11 guest rooms with registered guests, visitors invited to guest rooms by a registered guest or other

12 occupant of a guest room, or persons patronizing food, beverage, or other service facilities
13 provided by the hotel. The term "guest" does not include employees.

14 (3) "Guest room" means any room made available by a hotel for overnight occupancy by
15 guests;

16 (4) "Hotel" means any hotel, inn, boarding house, motel or other establishment whose
17 proprietor offers and accepts payment for rooms, sleeping accommodations or board and lodging
18 and retains the right of access to, and control of, the premises which are let, which contains at
19 least 25 guest rooms;

20 (5) "Hotel employer" means a person who directly or indirectly, including through the
21 services of a temporary staffing service or agency, employs or exercises control over the wages,
22 hours or working conditions of a hotel employee at a hotel; and

23 (6) "Panic button" means a portable emergency contact device which an employee can
24 quickly and easily activate to effectively summon immediate on-scene assistance from a security
25 officer, manager or supervisor, or other appropriate hotel staff member.

26 (c) A hotel employer shall: (1) Provide an employee, who is assigned to work in a guest
27 room or in any enclosed area under circumstances, where no other employee is present in such
28 guest room or area and where guests may be reasonably expected to be present, with a panic
29 button. The employee may use the panic button and cease work if the employee reasonably
30 believes there is an act of violence, sexual assault, sexual harassment, or other emergency
31 happening in the employee's presence. Panic buttons shall be provided by the hotel at no cost to
32 the employee; (2) Develop and maintain a program, which may include written information, to
33 educate hotel employees regarding the use of panic buttons and their rights in the event the hotel

34 employees activate their panic buttons, and to encourage hotel employees activate panic buttons
35 when appropriate. The program shall include information indicating that upon the activation of a
36 panic button an immediate on-scene response to the greatest extent possible is required; (3) (A)
37 Advise guests of the panic buttons it provides to hotel employees either by (i) Requiring guests,
38 upon checking in to the hotel, to acknowledge a notice detailing the panic button policy and the
39 rights of hotel employees, as part of the hotel terms and conditions; or (ii) Placing conspicuous
40 signs in a prominent location on the interior side of guest room doors and enclosed areas as
41 described by paragraph (1) of this subsection, detailing the panic button policy and the rights of
42 hotel employees.

43 (b) Any notice provided to guests as required under clause (3)(A) of this subsection shall
44 have the heading “The Law Protects Hotel Workers from Sexual Assault and Harassment”, and
45 clearly state “for the protection of our workers, this establishment provides safety buttons to its
46 workers who are reasonably expected to work alone in an area where guests are expected to be
47 present, in compliance with section 105E of Chapter 149D of the Massachusetts General Laws.”

48 (d) Upon an employee activating a panic button, an appropriate staff member of the hotel,
49 manager or supervisor, or security officer shall respond immediately to the location of the hotel
50 employee.

51 (e) Once a hotel employer is notified that an employee has activated the panic button, a
52 hotel employer shall: (1) Make a record of the accusation it receives from an employee, which
53 prompted the activation of the panic button, and maintain a record of such accusation and the
54 name of the accused guest. The name of the accused guest shall be maintained for a period of
55 three years from the date of the incident (2) Conduct an internal investigation to determine as

56 much identifying information about an accused guest as is reasonably possible; (3) Upon
57 conclusion of the investigation, if the hotel employee provides a certified statement of an
58 incident involving an assault or sexual harassment, or if the hotel employer determines there is
59 information in addition to or independent of a hotel employee's statement that reasonably
60 supports the hotel employee's description of the incident, shall decline to provide occupancy to
61 the guest for a period of at least three years from the date of the incident. A hotel employee shall
62 not be required to provide a certified statement.

63 (f) If an employee informs the hotel employer that the employee has been subjected to an
64 act of violence, sexual assault, or sexual harassment by a guest, then the hotel employer shall: (1)
65 Provide, upon request by the employee, the employee with paid time off to contact law
66 enforcement, seek injunctive or other legal relief, contact an attorney, or seek medical treatment,
67 counseling, or other services for any physical or mental injuries resulting from the act of
68 violence, sexual assault, or sexual harassment. As a condition of taking time off for purposes of
69 this paragraph, the employee shall give the employer reasonable advance notice of the
70 employee's intention to take time off, unless the advance notice is not feasible. When an
71 unscheduled absence occurs, the hotel employer shall not take an adverse action against the
72 employee if the employee, within a reasonable time, provides documentation showing that the
73 absence was for a reason set forth in this paragraph; (2) Provide, upon request by the
74 employee, reasonable accommodations for an employee who has been subjected to an act of
75 violence, sexual assault, or sexual harassment by a guest. Reasonable accommodations may
76 include, but are not limited to, transfer, reassignment, modified schedule, or any other reasonable
77 adjustment to a job structure, workplace facility, or work requirement; (3) Upon request of the
78 employee, report the act committed against the employee to law enforcement and to cooperate in

79 any law enforcement investigation, if the act constitutes a crime; (4) Comply with any other
80 obligations required by any applicable local, state, or federal law, including, but not limited to,
81 the requirement to investigate all reports of workplace harassment and to take appropriate
82 corrective actions.

83 (g) It shall be an unlawful practice for a hotel employer to discharge or take an adverse
84 action against an employee who reasonably uses a panic button, reports an act of violence, sexual
85 assault, or sexual harassment or who takes time off or requests an accommodation as provided by
86 this section for taking such action.

87 (h) Any person claiming to be aggrieved by an alleged unlawful practice or alleged
88 violation of subsection (g) of this section may bring an action against said hotel employer in any
89 court of competent jurisdiction. If the court in such action finds that an unlawful practice or
90 violation of subsection (g) has occurred, the court may grant any relief which a court could grant
91 with respect to an unlawful practice in a civil action under section 4 of chapter 151B.

92 (i) The attorney general may bring an action on behalf of any person or persons claiming
93 to be aggrieved by an alleged unlawful practice or alleged violation of any provision of this
94 action against said hotel employer in any court of competent jurisdiction. The attorney general
95 shall not be required to pay any filing fee or other cost in connection with such action.

96 (j) Any action based upon or arising under subsection (g) of this section shall be
97 instituted within 3 years after the date of the alleged violation. For the purposes of this action, a
98 violation occurs when an employee is discharged or becomes subject to any adverse action.

99 (k) Except as otherwise provided and in addition to any other penalty provided by law,
100 any hotel employer who violates paragraph (c) of this section shall be subject to a civil penalty of

101 not less than \$100 nor more than \$10,000. Each day that a violation continues shall constitute a
102 separate and distinct offense.

103 (l) The attorney general shall enforce this section and adopt rules to effectuate the
104 purposes of this act. This shall not preclude other law enforcement agencies from any action to
105 assure compliance with this section and all applicable laws.

106 SECTION 2. This section shall take effect 1 year after its passage.