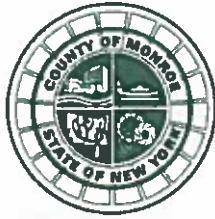


*Monroe County
Clerk of the Legislature*

**Jack Moffitt
Clerk**



**David Grant
Deputy Clerk**

MEMORANDUM

TO: Legislators, Directors, Staff and Media
FROM: Jack Moffitt, Clerk of the Legislature *h*
DATE: June 9, 2021
RE: Read and Print File No. 21-0248

The attached Read and Print is being distributed for your information.

21-0248 – Veto of Local Law (Intro No. 135 of 2021), Entitled “Business Closure Transparency Act” – County Executive Adam Bello

Attachment



Office of the County Executive

Monroe County, New York

Adam J. Bello
County Executive

June 9, 2021

OFFICIAL FILE COPY	
No. <u>210248</u>	
Not to be removed from the Office of the Legislature Of Monroe County	
Committee Assignment	
READ-PRINT	-L

Mr. Jack Moffitt
Clerk of the Legislature
Monroe County Legislature
407 County Office Building
Rochester, New York 14614

Dear Mr. Moffitt:

This is in response to your letter of May 14, 2021, in which you presented, among other matters, a Local Law entitled "Business Closure Transparency Act" (Intro. No. 135 of 2021), which was certified by you to have been adopted by the Monroe County Legislature at its meeting on May 11, 2021. Pursuant to Municipal Home Rule Law § 21 and § C2-7(A)(3)(c) of the Monroe County Charter, with this letter I am providing notice to the Legislature that I have disapproved this Local Law and am returning it to you with my objections.

This local law is an overregulation of Monroe County businesses and inserts an unnecessary step into a process that is already transparent, subject to public oversight, and consistent with the rules and regulations promulgated to protect the public. Instances in which Monroe County is compelled to close a business are governed by Chapter 569 of the Monroe County Code and the Monroe County Board of Health Public Health Administrative Hearing Procedure, which was promulgated by the Monroe County Legislature under Resolution 126 of 1996. Pursuant to the Monroe County Code, business permits may only be suspended or revoked by the Director of Health or the Board of Health after due notice and a hearing. Due notice includes sending businesses that are alleged to be in violation of the Monroe County Sanitary Code, the New York State Sanitary Code, the New York State Public Health Law, and/or pertinent provisions of the administrative rules and regulations of the Board of Health (generally, "Public Health Laws") a short and plain statement of facts surrounding the alleged violation(s), including the dates on which such facts were observed and specific references to the Public Health Laws alleged to have been violated.

Hearings are expeditious administrative proceedings to correct and impose penalties for violations of Public Health Laws. Hearings are open to the public, and each party has the right to be represented by counsel. Businesses have the right to appeal the decision of a hearing officer to the Monroe County Board of Health, the members of which are approved by the Monroe County Legislature and includes a member of that Honorable Body. If the issue the Legislature

Mr. Jack Moffitt
June 9, 2021
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is seeking to address is that it is not receiving records or other sufficient information regarding the Board of Health's work from the member of the County Legislature appointed to the Board, this issue should be addressed with the Legislature's representative. Alternatively, my office would be happy to obtain any additional information you request. However, requiring the Director of Health and/or Monroe County Board of Health to submit a report to the Monroe County Legislature, which has no authority to review the decisions of the hearing officer or the Monroe County Board of Health, is inefficient, unnecessary, and does not provide any additional insight for businesses as to why a business permit was suspended or revoked.

Last, at the Legislature's public hearing on this matter, I note that several business owners expressed concern about New York State's restrictions that required many businesses to cease or restrict their operations during the pandemic. This Local Law does nothing to address those concerns because the various restrictions on business operations during the pandemic were imposed by New York State and not Monroe County. If the intent of this Local Law is to obtain information regarding these closures, this Local Law does not achieve this goal.

For the reasons stated above, I have disapproved the Local Law entitled "Business Closure Transparency Act" (Intro. No. 135 of 2021).

Sincerely,



Adam J. Bello
Monroe County Executive

Enc.

By Legislators Brew and Delehanty

Intro No. 135

LOCAL LAW NO. __ OF 2021

ENACTING A LOCAL LAW ENTITLED "BUSINESS CLOSURE TRANSPARENCY ACT"

BE IT ENACTED BY THE LEGISLATURE OF THE COUNTY OF MONROE, as follows:

Section 1. Title. This local law shall be known as the law "Business Closure Transparency Act."

Section 2. Legislative Intent. The use of government authority to close or curtail a business's operations should not be taken lightly. It is the intent of this law to ensure that any decision made by Monroe County resulting in the closure of a business is transparent, subject to reasonable public oversight, and consistent with the rules regulations and laws promulgated to protect the public. To that end, it is the decision of this body to require the creation and publication of a "Report of Justification" detailing the County's legal reasoning and justification for the closure.

Section 3. Requirement to Report Closures.

A. Should any Monroe County Administrative Head, Agency, Employee, or official, elected, appointed, or otherwise, use any power granted to them to close a place of business for any reason or any length of time, that official shall be responsible for delivering a Report of Justification to the Clerk of the Legislature within forty-eight (48) hours of the ordered closure via email or hardcopy. It shall be incumbent upon the Clerk to forward a copy of the Report to every Legislator and ensure the report is entered into the Legislature's official record. If receipt of said Report occurs outside of operating hours of the Monroe County Legislature, the Clerk shall forward the Report to every Legislator and submit it to the legislative record as soon as practicable, but in any event no later than 10:00am the next business day. A copy of the Report of Justification shall also be delivered to the owner(s) of the impacted business within the same timeframe via Certified US Mail, Return Receipt Requested.

B. The Report of Justification shall include:

1. A detailed written report that provides justification for the decision to order the closure, signed by the Administrative Head, Agency, Employee, or official, elected, appointed, or otherwise, ordering the closure;
2. A copy of the official order or communication closing the place of business; and
3. Any and all evidence in the possession of Monroe County on which the closure is based.

Section 4. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. Effective Date. This local law shall take after filing with the Secretary of State pursuant to Section 27 of the New York State Municipal Home Rule Law.

Committee of the Whole; March 23, 2021 – CV: 19-9
File No. 21-0081.LL

ADOPTION: Date: May 11, 2021

Vote: 20-9

(Legislators Barnhart, Bauroth, Baynes, Hasman, Maffucci, Morelle, Jr., Roman, Wilcox and Yudelson Voted in the Negative.)

ACTION BY THE COUNTY EXECUTIVE

APPROVED: _____ VETOED: _____

SIGNATURE: Cedric Bell DATE: 6/9/2021

EFFECTIVE DATE OF LOCAL LAW: _____

2021 JUN -9 10 11 AM