

## Report on the Food and Beverage Study

Excerpts from the WCIRB Classification and Rating Committee Minutes  
January 31, 2023

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# Food and Beverage Study

**9079(1), Restaurants or Taverns – all employees – including musicians and entertainers**  
**9079(2), Concessionaires – dispensing food and beverage items at ball parks, racetracks, theaters, concert venues and amusement and recreational facilities**  
**9050, Hotels, Motels or Short-Term Residential Housing**

## Executive Summary

### Study Objectives

The restaurant industry is a driving force in California's economy. In the California workers' compensation system, food and beverage operations are typically assigned to Classifications 9079 or 8078.<sup>1</sup> In particular, Classification 9079 is one of the largest classifications in the workers' compensation system, accounting for 6.0% of statewide pure premium and 7.7% of statewide policies in 2019. The classification contemplates various types of restaurant operations that prepare and serve hot and cold food, including fast food and full service restaurants, bars and taverns, professional caterers and food and beverage service in other industry sectors. Discussions with industry stakeholders and a review of WCIRB data indicated that evolving trends in the restaurant industry may have led to divergent business operations and loss experience across different segments.

Based on a recommendation from the WCIRB Classification and Rating Committee, the WCIRB initiated a multi-year effort in 2021 to holistically review the classification procedures for the restaurant industry with the following objectives:

1. Identify distinct segments within the restaurant industry regarding operations and workers' compensation claim patterns and experience;
2. Identify key drivers of workers' compensation claim costs in the restaurant industry;
3. Determine if the key cost drivers differ by industry segment;
4. Determine the propriety of continuing to exclude tips and service charges from the basis of workers' compensation premium; and
5. Recommend changes to the existing classification process for the restaurant industry, if indicated by study findings.

The WCIRB has completed an in-depth review of the operations, loss and payroll experience and claim characteristics of several identified distinct segments in Classification 9079 and gathered feedback from industry stakeholders, including employers, insurers, researchers and regulators, revealing among other things that the COVID-19 pandemic has significantly disrupted the restaurant industry and may have varying impacts on the distinct segments as the business operations of these segments may have evolved or are evolving to adapt to the changes in the marketplace in distinct and potentially permanent ways.

Later phases of this study will include an in-depth review of food and beverage operations in connection with other industry sectors, continued industry outreach to obtain feedback on the treatment of tips and service charges for purposes of workers' compensation premium determination, an analysis of the restaurant industry's payroll and loss data for the newly established classifications once it is reported and, if appropriate based on this data analysis, recommend separate advisory pure premium rates for these classifications as well as an analysis of the impact of Assembly Bill No. 257 (AB 257)<sup>2</sup> on the fast food industry and the restaurant industry as a whole.

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<sup>1</sup> Classification 9079 consists of two alternate phraseologies (or suffixes): 9079(1), *Restaurants or Taverns*, and 9079(2), *Concessionaires*. Classification 8078 consists of three alternate phraseologies (or suffixes): 8078(1), *Sandwich Shops*, 8078(2), *Beverage Preparation Shops*, and 8078(3), *Ice Cream or Frozen Yogurt Shops*.

<sup>2</sup> AB 257 was signed into law on September 5, 2022. Among other provisions, the new legislation establishes a council that would establish minimum standards on wages, working hours and other working conditions related to the health, safety and welfare of fast food restaurant workers. AB 257 defines a fast food restaurant as an establishment that primarily provides food or beverages in a

## Findings

The findings of this study include:

1. Five segments with distinct operations were identified from the operations assigned to Classification 9079: bars and taverns, professional caterers, fast food and fast casual restaurants, full service restaurants and hotel food and beverage service. The remaining employers classified in 9079 include employers whose operations are not characterized by one of the segments listed above.
2. For purposes of this study, the bars and taverns segment is defined as business operations that have been issued license types 42, 48 or 61 by the California Department of Alcoholic Beverage Control. As specified by these licenses, bars and taverns may, but are not required to, prepare or serve food. Bars and taverns operate differently from other segments in that the primary operation is the preparing, pouring and serving of alcoholic beverages and minors are not allowed on the premises. Based on a credible sample of Classification 9079 employers assigned in this manner to the bars and taverns segment, the loss to payroll ratios of bars and taverns were slightly higher than those of all Classification 9079 employers. In addition, the COVID-19 pandemic may have permanently changed some aspects of bar and tavern operations, the effects of which are not yet reflected in the available data.
3. For purposes of this study, the professional caterers segment is defined as businesses hired to provide hot and cold food and beverage services for specific events at customer designated locations and excludes businesses with brick-and-mortar locations that serve food or beverages to walk-in customers and full service restaurants that may perform catering as an added service. The operations of professional caterers are distinct from other food and beverage operations, mostly due to transportation and food service at event locations. Based on a credible sample of Classification 9079 employers assigned in this manner to the professional caterers segment, the loss to payroll ratios of professional caterers were higher than those of all Classification 9079 employers. Professional caterers have also been heavily impacted by the pandemic and may have evolved to providing new types of food services.
4. For purposes of this study, the fast food and fast casual restaurants segment is defined as restaurant operations preparing hot and cold food with limited to no table service that require customers to pay before eating. Based on a credible sample of Classification 9079 employers assigned in this manner to the fast food and fast casual restaurants segment, their historical payroll and loss experience appears to be modestly different from that of other segments and that of Classification 9079 as a whole.
5. For purposes of this study, the full service restaurants segment is defined as restaurant operations preparing and serving hot and cold food with wait staff and table service that includes collecting payment from customers upon completion of the meal service. Based on a credible sample of Classification 9079 employers assigned in this manner to the full service restaurants segment, the loss to payroll ratios for the full service restaurants were lower than those of all Classification 9079 employers. The pandemic had a significant impact on full service restaurants since many restaurants discontinued dine-in services and pivoted to providing solely take-out or using a third party for delivery. While many full service restaurants have started to resume dine-in services, labor shortages have created further challenges for this as well as other segments in the industry, such as employment of relatively inexperienced employees who may be more likely to have work-related injuries.
6. Food and beverage operations are common in the hotel and motel industry and are currently separately assigned to Classification 9079. For purposes of this study, hotel food and beverage service currently assigned to Classification 9079 is defined as restaurants, bars and taverns owned and operated by hotels or motels, room service provided by the hotel or motel restaurant and the restocking of in-room refrigerators. Hotel food and beverage service operations are located adjacent to or in hotels or motels. Hotel food and beverage service operates differently

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specific manner and is a part of a set of restaurants consisting of 100 or more establishments nationally that share a common brand or that are characterized by standardized options for decor, marketing, packaging, products and services.

than other types of food and beverage operations assigned to Classification 9079 and for the recent five years has had higher loss to payroll ratios than those of Classification 9079 experience as a whole, partly driven by the differences in frequency and severity of the leading causes of injuries. Like other segments of Classification 9079, hotel food and beverage service operations have also been significantly impacted by the pandemic.

## **Recommendations**

Based on these findings, the WCIRB recommends:

1. Establishing Classification 9084, *Bars or Taverns – not restaurants*, to apply to bars and taverns that operate under one of three California Department of Alcoholic Beverage Control liquor licenses (type 42, 48 or 61).
2. Establishing Classification 9082, *Caterers – not restaurants*, to apply to professional or event caterers with no fixed location for customer dining or for the preparation of individually ordered meals for take-out.
3. Establishing Classification 9083, *Restaurants – fast food or fast casual*, to apply to fast food or fast casual restaurants with limited to no table service and that require customers to pay before eating.
4. Establishing Classification 9080, *Restaurants – full service*, to apply to full service restaurants with table service and that require customers to pay after eating.
5. Establishing Classification 9058, *Hotels, Motels or Short-Term Residential Housing – food or beverage employees*, to apply to the food and beverage services operated by and located at or near a hotel, motel or short-term residential housing employer as a companion classification to Classification 9050, *Hotels, Motels or Short-Term Residential Housing*.
6. Establishing Classification 9081(1), *Restaurants – N.O.C.*, to apply to various hot and cold food operations that are not more accurately described by another classification.
7. Eliminating Classification 9079(1), *Restaurants or Taverns – all employees – including musicians and entertainers*, and reassigning its constituents to one of the newly established Food and Beverage Industry Group classifications or Classification 9058, *Hotels, Motels or Short-Term Residential Housing – food or beverage employees*.
8. Amending 9079(2), *Concessionaires*, to assign a new four digit classification code for consistency with other proposed changes.
9. Combining Classifications 9084, 9082, 9083, 9080, 9058, 9081(1) and 9081(2) for ratemaking purposes until sufficient payroll and loss data in each of these classifications have been collected and an analysis of that data supports the establishment of different advisory pure premium rates.
10. Establishing a Food and Beverage Service Industry Group to include newly established Classifications 9084, 9082, 9083 and 9080 and Classifications 9081(1), 9081(2), 8078(1), 8078(2) and 8078(3).

Given the impact of this change on employers, the WCIRB recommends that these changes be included in the September 1, 2023 Regulatory Filing with a proposed effective date of September 1, 2024. If adopted by the Insurance Commissioner, this will allow the WCIRB to conduct extensive outreach prior to the September 1, 2024 effective date.

## I. Background and Study Objectives

The restaurant industry is a driving force in California's economy. In the California workers' compensation system, food and beverage operations are typically assigned to Classifications 9079 or 8078.<sup>3</sup> In particular, Classification 9079 is one of the largest classifications in the workers' compensation system, accounting for 6.0% of statewide pure premium and 7.7% of statewide policies in 2019. The classification contemplates various types of restaurant operations that prepare and serve hot and cold food, including fast food and full service restaurants, bars and taverns, professional caterers and food and beverage service in other industry sectors. Discussions with industry stakeholders and a review of WCIRB data indicated that evolving trends in the restaurant industry may have led to divergent business operations and loss experience across different segments.

Based on a recommendation from the Classification and Rating Committee, the WCIRB initiated a multi-year effort in 2021 to holistically review the classification procedures for the restaurant industry with the following objectives:

1. Identify distinct segments within the restaurant industry regarding operations and workers' compensation claim patterns and experience;
2. Identify key drivers of workers' compensation claim costs in the restaurant industry;
3. Determine if the key cost drivers differ by industry segment;
4. Determine the propriety of continuing to exclude tips and service charges from the basis of workers' compensation premium; and
5. Recommend changes to the existing classification process for the restaurant industry, if indicated by study findings.

In Phase I (2021) of this study, the WCIRB researched the business operations and loss experience of the restaurant industry and gathered industry feedback on the differentiating factors and cost drivers of potential industry segments. Initial research findings indicated a clear line of demarcation between Classifications 9079 and 8078 operations as well as claim characteristics and loss experience. In addition, exploratory research as well as industry feedback indicated that Classification 9079 may have several potential distinct operational segments, such as fast food, fast casual, bars and taverns and professional caterers.

Currently, in Phase II, the WCIRB built upon Phase I's initial findings to focus on Classification 9079's potential operational segments and developed a working definition for each potential segment. The WCIRB also created a credible sample of operations for each segment to review the loss and payroll experience and claim characteristics of the segment. Recently, the COVID-19 pandemic has significantly disrupted the restaurant industry and may have varying impacts on different segments. These segments may also be evolving to adapt to the changes in the marketplace in distinct and potentially permanent ways. The WCIRB contacted industry associations, employers, insurers, regulators and researchers to gain insights into current industry trends and the impact of the pandemic on restaurant operations. A review of food and beverage services provided in the hotel industry was also completed. Taken together, the WCIRB assessed whether separate classifications for these distinct segments should be created. This analysis is detailed in this report.

In future phases of the study, the WCIRB plans to review whether restaurant tips and service charges should continue to be excluded from the basis of workers' compensation premium as well as to further review food and beverage operations in connection with other industry sectors, such as additional classifications in the hospitality and resort industries, grocery stores, breweries, wineries and amusement parks, to determine if different treatments for food and beverage operations are warranted for different industry sectors. In addition, the WCIRB plans to review the impact of recently passed AB 257 on the fast food industry and the restaurant industry as a whole and to analyze payroll and loss data for the newly

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<sup>3</sup> Classification 9079 consists of two alternate phraseologies (or suffixes): 9079(1), *Restaurants or Taverns*, and 9079(2), *Concessionaires*. Classification 8078 consists of three alternate phraseologies (or suffixes): 8078(1), *Sandwich Shops*, 8078(2), *Beverage Preparation Shops*, and 8078(3), *Ice Cream or Frozen Yogurt Shops*.

established classifications once it is reported and, if appropriate based on this data analysis, recommend separate advisory pure premium rates for these classifications.

## II. Analysis Approach

The WCIRB analyzed the business operations and payroll and claim experience of employers in different industry segments, including bars and taverns, professional caterers, fast food and fast casual restaurants, full service restaurants and hotel food and beverage service, using both qualitative and quantitative information from a variety of sources.

Classification Inspection Reports: The WCIRB reviewed the Classification Inspection Reports for employers with payroll reported in Classification 9079 to better understand the business operations of bars and taverns, professional caterers, fast food and fast casual restaurants and full service restaurants. In addition, the WCIRB reviewed the Classification Inspection Reports for employers with payroll also reported in Classification 9050 to better understand food and beverage services provided by hotels and motels.

Industry Outreach: The WCIRB met with restaurant employers in different industry segments and insurers that underwrite significant components of the restaurant industry to gain insights into the operational characteristics of the different segments of the food and beverage industry. Additionally, the WCIRB met with the California Department of Alcoholic Beverage Control (ABC) to discuss various alcoholic beverage license types, and an occupational health and safety researcher from the University of California, Los Angeles Labor Occupational and Safety Health Program (UCLA LOSH) to gain insights into fast food restaurant operations. The WCIRB also met with labor organizations to better understand job duties and work processes in the restaurant industry.

Unit Statistical Reports: The WCIRB analyzed the historical Unit Statistical Report (USR) data at the latest, and at the first and second report levels for Classifications 9079 and 9050, including payroll and claim experience and the injury characteristics of the claims, for policy years 2003 through 2019.<sup>4</sup> Losses were limited to \$500,000 per claim to minimize large swings in the loss to payroll ratios over time.

Dun and Bradstreet Hoovers Data: Based on the 2021 WCIRB Geo Study database, USR data was mapped to the Dun and Bradstreet Hoovers (D&B Hoovers) data, which provides business information by employer locations, to help analyze employer payroll and claim experience by location.

ABC Data: The WCIRB linked ABC license type information, which includes employer name and location for all ABC license type holders, to D&B Hoovers and USR data to analyze employer payroll and claim experience for specific license types.

California Restaurant Data: The WCIRB linked a public dataset of a sample of California restaurants published on a California government website to coordinate emergency responses to the COVID-19 pandemic, which includes business information and employer self-identified attributes, to D&B Hoovers and USR data to analyze employer payroll and claim experience for specific employer attributes. The business information in this dataset was also used to validate the assignment of employers to different industry segments.

Other Jurisdictions: The WCIRB reviewed other jurisdictions' classification procedures for food and beverage operations, including bars and taverns, professional caterers, fast food and fast casual restaurants, full service restaurants and hotel food and beverage service to understand how these operations are classified.

## III. Analysis Results

Based on operational characteristics, the WCIRB identified several potential segments in the restaurant industry: bars and taverns, professional caterers, fast food and fast casual restaurants, full service restaurants and hotel food and beverage service.

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<sup>4</sup> The first report level is valued 18 months from policy inception and the second report level is valued 30 months from policy inception.

## 1. Bars and Taverns

- **Definition and Operational Characteristics**

For purposes of this study, the WCIRB defined the bars and taverns operational segment as any business location that has been issued one of the three primary ABC license types for bars and taverns and excludes restaurants that serve alcoholic beverages.<sup>5</sup> If an employer has different food and beverage operations at multiple locations, only bar and tavern locations are included in this segment.

There are currently 75 ABC license types available, three of which are the primary license types associated with bars or taverns (license types 42, 48 and 61) (Table 1). These three license types represent the primary license types that the state of California considers a bar or tavern as opposed to a bona fide public eating place (restaurant) that serves alcoholic beverages.<sup>6</sup> These license types have restrictions on the type of alcoholic beverages (e.g., beer, wine or distilled spirits) that can be served for consumption on-site and that minors are not allowed on the premises. None of the three license types require hot food to be served. Employers that hold one of these three license types, however, may choose to serve hot food for consumption on-site.

**Table 1. Primary ABC License Types for Bars and Taverns**

License Type	Allowed to serve beer	Allowed to serve wine	Allowed to serve distilled spirits	Examples
42	Yes	Yes	No	Beer or wine bars
48	Yes	Yes	Yes	Bars and nightclubs
61	Yes	No	No	Bars with a billiard hall

Typical establishments in the bars and taverns segment have at least one bar counter (also known as the front bar or bar top) behind which drinks are prepared or poured. Customers can walk up to the bar counter and place their orders directly with bartenders, who serve drinks directly to customers. Some establishments may also have wait staff, depending on the type of bar or tavern and the available seating area. These establishments may also provide entertainment such as live music or games (e.g., pool tables, arcade consoles and darts) for customers to enjoy while consuming their beverages on-site. Feedback from bar and tavern owners as well as insurers indicated support for using ABC license types to classify bars and taverns separately from other food and beverage operations.

Several jurisdictions have a separate classification for bars and taverns and, to qualify, a majority (more than 50%) of gross receipts must be derived from the sale of alcoholic beverages. However, a key challenge of administering this classification rule based on employer and insurer feedback is that gross receipts may fluctuate from year to year, particularly for employers that prepare and serve hot food and also have expensive bottles of alcohol available for purchase and consumption. In these cases, employers may generate more than 50% of their gross receipts from the sale of alcohol and thus would be classified in the jurisdiction's respective bar and tavern classification even though they do not truly operate a bar or tavern. Additionally, if employers are close to the 50% gross receipt threshold from year to year, their operations may switch between the bars and taverns and full service restaurant classifications, even though the employers' operations have not significantly changed.

- **Impacts of the Pandemic**

Outreach to bar and tavern owners suggests that bars and taverns have been almost “decimated” by the pandemic. Many bars and taverns do not have full kitchens and, as a result, were unable to pivot to providing food service for pick up or delivery to compensate for the lost revenue during the California shelter-in-place periods. Additionally, bar and tavern owners indicated that customers are sensitive to price increases for alcoholic beverages, so despite the growing inflation that has made operations more costly since 2021, they are unable to recoup lost revenue by increasing sale prices. Industry feedback

<sup>5</sup> ABC licenses are established pursuant to the California Alcoholic Beverage Control Act: <https://www.abc.ca.gov/law-and-policy/legislation/abc-act/>.

<sup>6</sup> ABC also issues licenses for “bona fide public eating places,” which are restaurants that also prepare, pour and serve alcoholic beverages. These restaurants must have suitable kitchen facilities and make actual and substantial sales of meals for consumption on the premises.

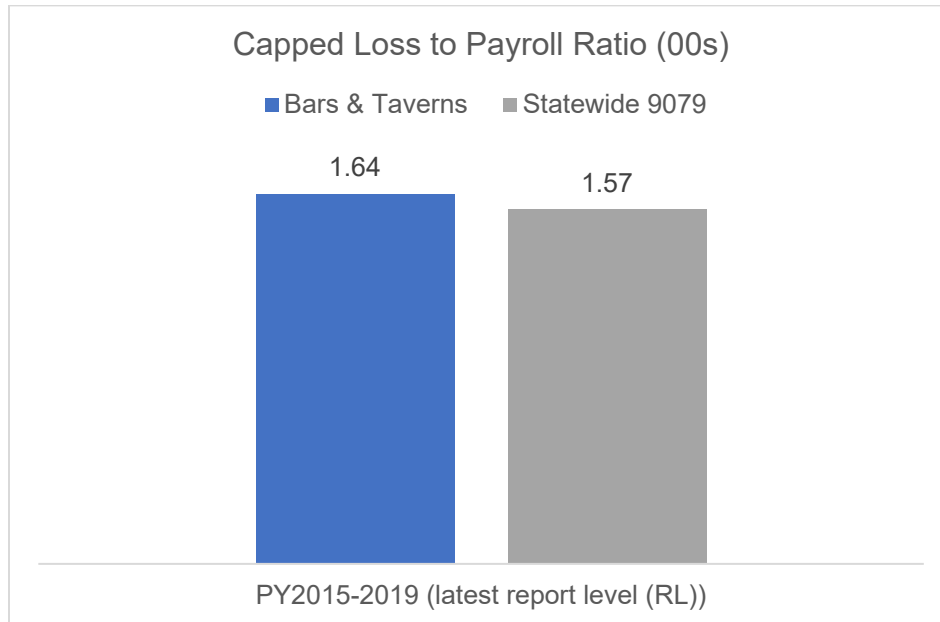


also indicated that some bars and taverns with full kitchens have started to expand their operations to include food service.

- **Loss and Payroll Experience**

Using the 2022 ABC license type information, the WCIRB identified a sample of bar and tavern operations from policy years 2015 to 2019 that account for about 0.6% of the reported statewide payroll in Classification 9079. The statistical credibility of this sample is approximately 83%.<sup>7</sup> As shown in Figure 1, the historical capped loss to payroll ratio for bars and taverns was 4% higher than that of statewide Classification 9079 for policy years 2015 to 2019, mostly driven by a significantly higher average indemnity claim severity (Figure 2).

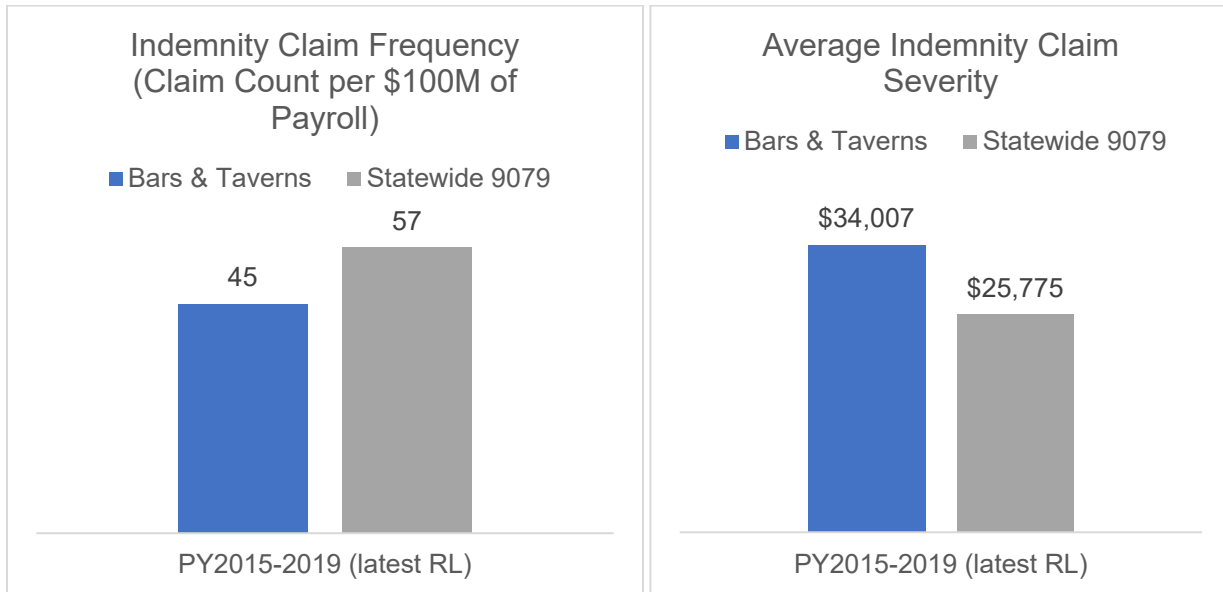
**Figure 1. Historical Capped Loss to Payroll Ratios<sup>8</sup> Comparing Bars and Taverns to Statewide Classification 9079**



<sup>7</sup> Credibility was calculated based on the Classification Relativities from the January 1, 2021 Regulatory Filing. The same methodology was applied to the credibility calculation for other segments.

<sup>8</sup> The capped loss to payroll ratio was calculated as the aggregate losses at the latest report level over policy years 2015 to 2019 divided by the aggregate payroll during the same period. Losses were capped at \$500,000 per claim. The same methodology was used for Figures 3, 4, 5, 7 and 9.

**Figure 2. Indemnity Claim Frequency and Severity Comparing Bars and Taverns to Statewide Classification 9079**



The WCIRB also compared the typical causes of injuries for bar and tavern employees to those for all Classification 9079 employees. While bars and taverns had similar typical causes of injuries as the statewide restaurant experience, the segment had lower frequency and average claim severity for burn injuries. This suggests bars and taverns are less likely to involve hot food preparation.

In summary, bars and taverns operate differently from other restaurant operations. The historical payroll and loss experience of a credible sample of bar and tavern operations showed a moderate difference between the bars and taverns segment and the statewide experience of Classification 9079. In addition, the COVID-19 pandemic may have permanently changed some aspects of bar and tavern operations, which is not yet reflected in available data.

## 2. Professional Caterers

- **Definition and Operational Characteristics**

For purposes of this study, the WCIRB defined the professional caterers segment of Classification 9079 as business operations hired to provide food and beverage services for specific events and excluding those with brick-and-mortar locations that serve food or beverages to walk-in customers and full service restaurants that may perform catering as an added service.

Professional caterers typically prepare food in advance of the event at their own location; transport the food and beverages to the event location; set up and warm food; may serve food and beverages to guests; and lastly, transport soiled items back to their own location. Professional caterers may employ event production staff to help customers choose a venue and theme, secure table and chair rentals, and select food and beverages prior to the catered event. Depending on the size of the employer, they may also have employees who engage solely in loading, transporting and unloading food and beverage items. These caterers often employ part-time employees, as well as contract with staffing agencies for temporary employees, to serve or assist at events. Use of staffing agencies and contracting with independent contractors for related services are more prevalent among the professional caterers segment than other operational segments within Classification 9079. The industry and insurer representatives contacted were generally in agreement with the WCIRB's definition of professional caterers and identification as a distinct segment.

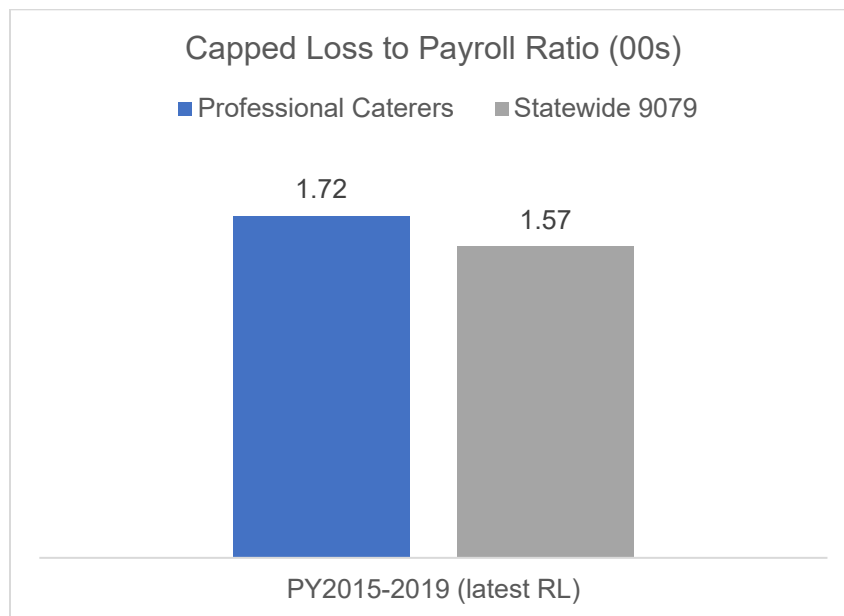
- **Impacts of the Pandemic**

Similar to bars and taverns, professional caterers were heavily impacted by the pandemic. Feedback from professional caterers revealed that many caterers shut down completely when California’s shelter-in-place orders went into effect as many events were cancelled and catering services were no longer required. After the shelter-in-place orders were lifted, demand for professional catering services started to return but is not back to pre-pandemic levels. Additionally, many professional caterers have pivoted to providing new food and beverage services in order to recoup lost revenue from the early months of the pandemic. For example, some professional caterers began assembling boxed lunches for delivery to the homes of corporate employees, and these operations would not be considered professional catering services as defined in this study as preparing bulk orders of boxed lunches does not involve food or beverage operations at an event location.

- **Loss and Payroll Experience**

The WCIRB identified a credible sample<sup>9</sup> of professional caterers based on the policyholder names reported for the employer’s policy.<sup>10</sup> The sample accounted for about 1.4% of reported statewide payroll in Classification 9079. As shown in Figure 3, the historical capped loss to payroll ratio for professional caterers was 10% higher than that of the statewide Classification 9079 experience for policy years 2015 to 2019. In general, professional caterers had a slightly lower claim frequency but on average more severe claims than the average of all Classification 9079 employers.

**Figure 3. Historical Capped Loss to Payroll Ratios Comparing Professional Caterers to Statewide Classification 9079**



The WCIRB also compared the leading causes of injuries between professional caterers and statewide Classification 9079 experience. The professional caterers segment had a slightly higher claim frequency and claim severity for fall injuries and struck injuries. Although there appears to be a significant vehicle exposure for professional caterers, only 1% of indemnity claims from professional catering employees involved motor vehicle accidents, similar to the share of motor vehicle claims of all employers in Classification 9079. In general, there does not seem to be a significant difference in the typical causes of injuries between professional caterers and Classification 9079 as a whole.

<sup>9</sup> A credible sample has a statistical credibility of 100%.

<sup>10</sup> Any employer that had a reported policyholder name that included “cater,” “event” or “banquet” and fewer than five policyholder names listed on their policy was included in this segment. An analysis of restaurant and catering employers with more than five policyholder names listed on their policies revealed that these employers typically operated casual or fine dining restaurants and may perform catering as an added service.

In summary, the operations of professional caterers are distinct from other food and beverage operations, mostly due to aspects of transportation and the provision of food services at event locations that vary by customer. Based on a credible sample of professional caterers, the payroll and loss experience of professional caterers was different from that of the statewide Classification 9079 experience. Similar to the bars and taverns segment, operations of professional caterers were heavily impacted by the pandemic and may have evolved to providing new types of food services which are not yet reflected in available data. More recent pandemic period data is needed to evaluate these new trends.

### **3. Fast Food and Fast Casual Restaurants**

- **Definition and Operational Characteristics**

For purposes of this study, the WCIRB defined the fast food and fast casual operational segments as restaurant operations with limited to no table service that require customers to pay before eating. These fast food and fast casual restaurants may have franchised locations, and employers may own multiple locations that are open to the public.

Fast food and fast casual restaurants prepare and serve hot and cold food and may also pour and serve alcoholic beverages. Typically, employees take orders and serve customers from a counter inside the establishment or from a drive-through window, and customers pay for orders before eating. Food may also be ordered through a kiosk or a web-based application. Some food is prepared or cooked in advance and is typically assembled when customer orders are received. Feedback from some fast food and fast casual employers revealed that some food items are received pre-cut or pre-made from food distributors, so more time can be dedicated to cooking and assembling food items. Food and beverages are prepared for immediate consumption on or off premises and served in disposable containers. Tips and service charges are generally not expected since there is no table service.<sup>11</sup>

- **Impact of the Pandemic**

Fast food employers were less impacted by California's shelter-in-place orders than other restaurant operational segments due to the presence of drive-through windows that allowed customers to complete their transactions without entering the establishments. Fast casual employers, on the other hand, were more heavily impacted by the pandemic. Feedback from employers revealed that revenues plummeted during California's shelter-in-place orders. Many of these fast casual establishments were located near corporate offices, and when employees were required to work from home, the demand for lunch service dropped significantly. As a result, some fast casual employers that solely operated during lunch hours or primarily depended on lunch sales went out of business. More recently, some large fast casual restaurants have begun adding drive-through windows to adapt to the changing environment.

- **Loss and Payroll Experience**

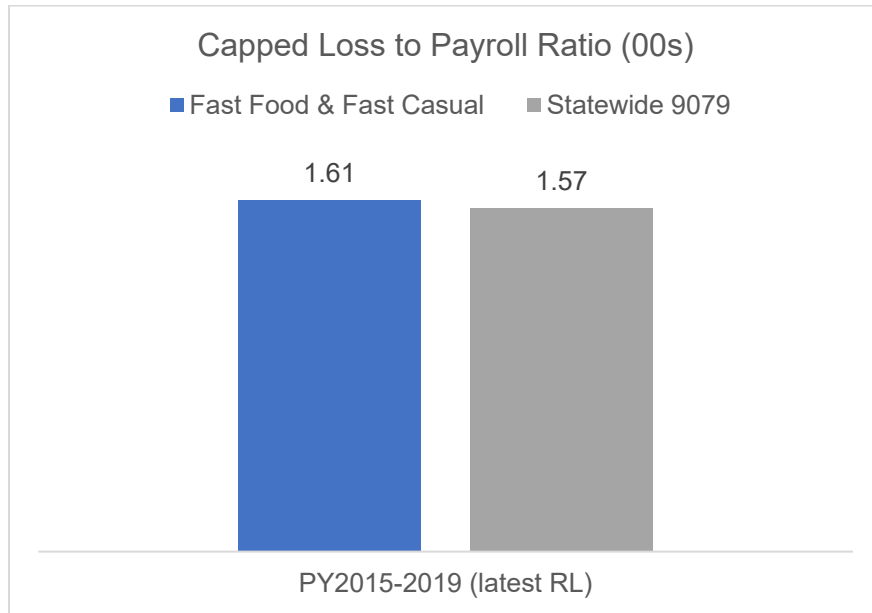
The WCIRB identified a credible sample of fast food and fast casual employers that accounted for about 20% of reported statewide payroll in Classification 9079.<sup>12</sup> As shown in Figure 4, the capped loss to payroll experience for fast food and fast casual employers were modestly different from that for all Classification 9079 for policy years 2015 to 2019

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<sup>11</sup> Tips and service charges are currently not included in the basis of premium for workers' compensation in California.

<sup>12</sup> The fast food and fast casual employers were identified in the WCIRB data based on (1) linking business attributes reported by employers from the external California Restaurant Data and (2) a review of individual employer's WCIRB Classification Inspection Reports and business information online. In the external California Restaurant Data, fast food and fast casual employers were those with "counter service" attribute. Buffets were also included in the fast food and fast casual segment.

**Figure 4. Historical Capped Loss to Payroll Ratios Comparing Fast Food and Fast Casual to Statewide Classification 9079**



Regarding typical causes of injuries, fast food and fast casual restaurant employees had slightly higher frequency and lower severity of typical causes of injuries compared to all Classification 9079 employees.

In summary, fast food and fast casual restaurants operate differently from other food operations in Classification 9079 given the limited to no table service and that customers pay before eating. The historical payroll and loss experience of the fully credible sample of fast food and fast casual employers show modest differences between the fast food and fast casual segment and all Classification 9079 experience.

#### **4. Full Service Restaurants**

- **Definition and Operational Characteristics**

For purposes of this study, the full service restaurants segment is defined as business operations with wait staff and table service, such as fine dining and casual dining establishments. The operations of full service restaurants differ from those of other segments in Classification 9079 as full service restaurants typically have full kitchens where food is prepared using raw ingredients, which more likely involves cutting. In addition, full service restaurants have permanent wait staff who serve hot and cold food to customers for consumption on the premises, and customers pay for food and beverages after consumption. Distinct from bars and taverns, full service restaurants may not always prepare, pour and serve alcoholic beverages in connection with preparing and serving food. Full service restaurants that provide alcoholic beverages also maintain different ABC liquor license types than bars and taverns. While full service restaurants may also provide professional catering services, it is not their primary operation or means of revenue. Finally, tips and service charges are likely a more significant component of compensation in this segment than in others.

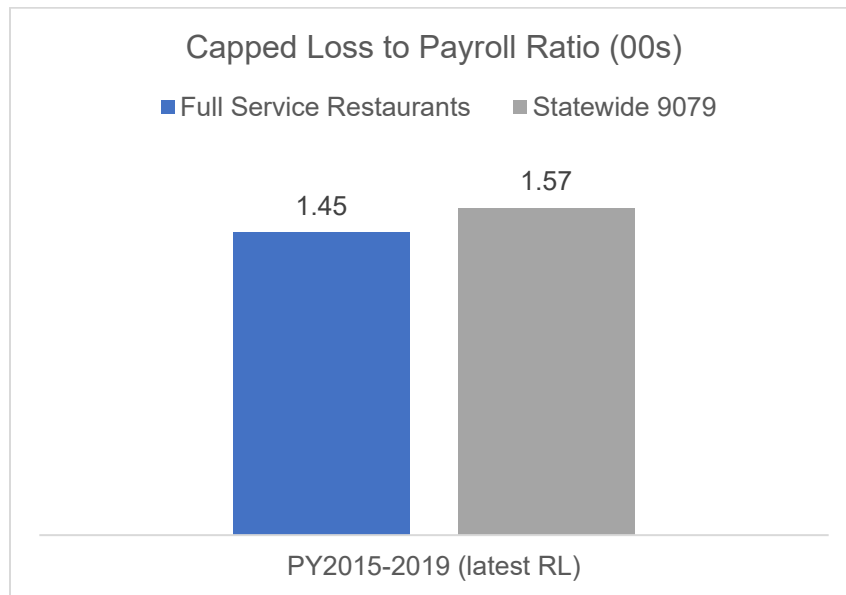
- **Impact of the Pandemic**

The pandemic has also had a significant impact on California full service restaurants since many restaurants had to discontinue dine-in services and pivot to providing solely take-out or delivery services via a third party during the shelter-in-place order period as well as during later COVID surges. Many restaurants also created new or expanded existing outdoor dining areas to make up for limited to no indoor dining and have kept these areas even as indoor dining has been reinstated. More recently, while many full service restaurants have reinstated dine-in services, labor shortages have created further challenges to the industry, such as employment of relatively inexperienced employees who may be more likely to have work-related injuries.

- **Loss and Payroll Experience**

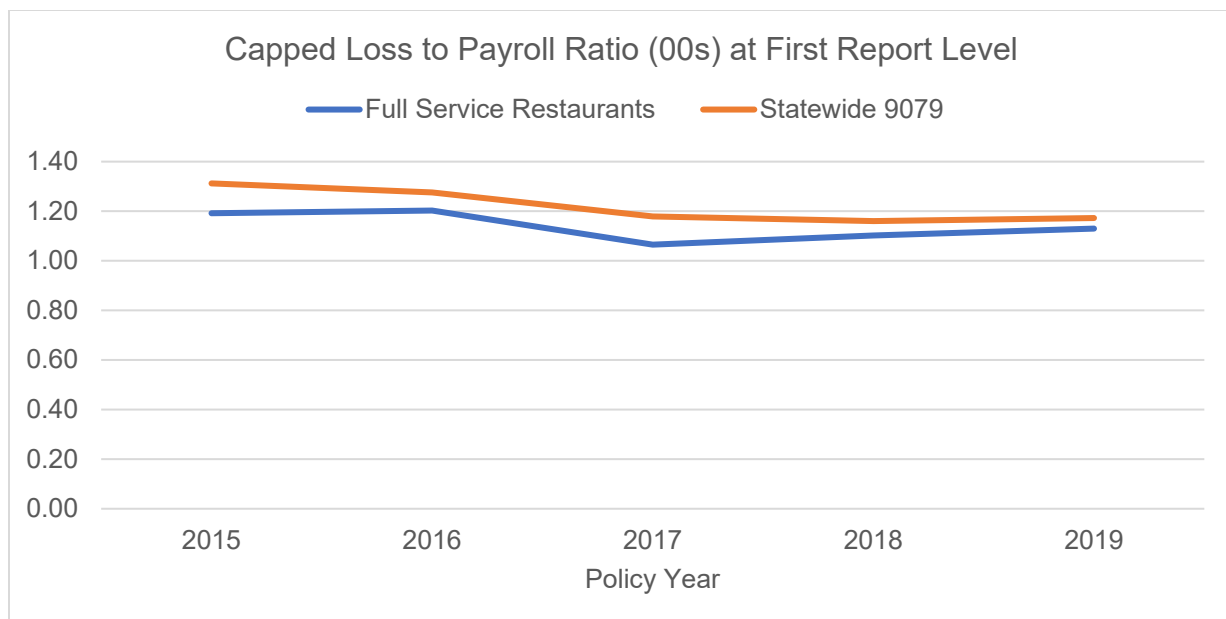
The WCIRB identified a credible sample of full service restaurants that accounted for about 28% of reported statewide payroll in Classification 9079. As shown in Figure 5, the historical capped loss to payroll ratio for full service restaurants was 8% lower than that of the statewide Classification 9079 experience for policy years 2015 to 2019, driven by both a lower claim frequency and average claim severity.

**Figure 5. Historical Capped Loss to Payroll Ratios Comparing Full Service Restaurants to Statewide Classification 9079**



To assess if the differential in loss to payroll ratios was consistent over time, the WCIRB explored the loss to payroll ratios at the first report level over the latest five years available. As shown in Figure 6, the historical loss to payroll ratio trend for full service restaurants was consistently lower than statewide Classification 9079 experience, and the difference between the two remained at a similar level over the five-year period studied.

**Figure 6. Historical Capped Loss to Payroll Ratio Trend at First Report Level Comparing Full Service Restaurants to Statewide Classification 9079**



While full service restaurants share the same typical causes of injuries, including fall and strain injuries, with statewide Classification 9079 experience, they have slightly higher frequencies of cut, puncture and scrape injuries, potentially due to full service restaurant employees needing to do more cutting in food preparation than in other segments.

In summary, full service restaurants operate differently from other segments in Classification 9079 mostly due to the presence of wait staff and table service. Based on a credible sample of full service restaurants, the historical loss to payroll ratios were lower than those of statewide Classification 9079. In addition, the pandemic and current economic environment have brought challenges to the industry that may impact the workers' compensation risk exposure.

## **5. Hotel Food and Beverage Service**

### **• Definition and Operational Analysis**

For purposes of this study, the WCIRB defined hotel food and beverage service in Classification 9079 as restaurants owned and operated by hotels or motels, room service provided by those restaurants and the restocking of in-room refrigerators.<sup>13</sup> Hotel food and beverage service is located adjacent to or in hotels or motels and consists of bars and taverns and full service restaurants with wait staff. Employees typically work in the food and beverage departments of the hotel or motel; prepare or serve hot and cold food (including complimentary breakfast, if applicable) and beverages in connection with restaurants or bars; provide room service, including delivering food to guests' rooms; restock in-room refrigerators; or provide on-site catering.

These hotel food and beverage service employees must perform no other hotel or motel duties in order for their payroll to be assigned to Classification 9079.<sup>14</sup> Hotel food and beverage service operations differ from those of the full service restaurants or bars and taverns segments in that hotel food and beverage service employees may restock in-room refrigerators and deliver food and beverages to guests' rooms as part of the hotel's room service. While many hotels suspended room service during the pandemic, feedback from hotel food and beverage service employers suggested that some hotels have recently reinstated room service, while others are likely to reinstate it in the future.

A number of other jurisdictions have a separate companion classification for restaurant employees who work under the direct management of hotels, motels or similar operations. This companion classification can only be used in connection with each jurisdiction's respective hotel or motel classification.

Conversely, two other jurisdictions do not have a companion classification for hotel food and beverage service employees and direct that hotel food and beverage service operations are assigned to that jurisdiction's respective restaurant classification.

### **• Loss and Payroll Experience**

The WCIRB identified a credible sample of hotel food and beverage service operations, accounting for approximately 6% of the statewide payroll reported in Classification 9079.<sup>15</sup> The WCIRB compared historical loss to payroll ratios for hotel food and beverage service to statewide hotel experience (Classification 9050) and statewide restaurant experience (Classification 9079) for policy years 2003 to 2019. The loss to payroll ratios of the statewide hotel experience had been consistently higher (approximately double) than that for statewide restaurant experience and hotel food and beverage service, suggesting much higher workers' compensation risk exposure in hotel operations than in their food and beverage service operations, and the difference remained relatively consistent over time (Figure

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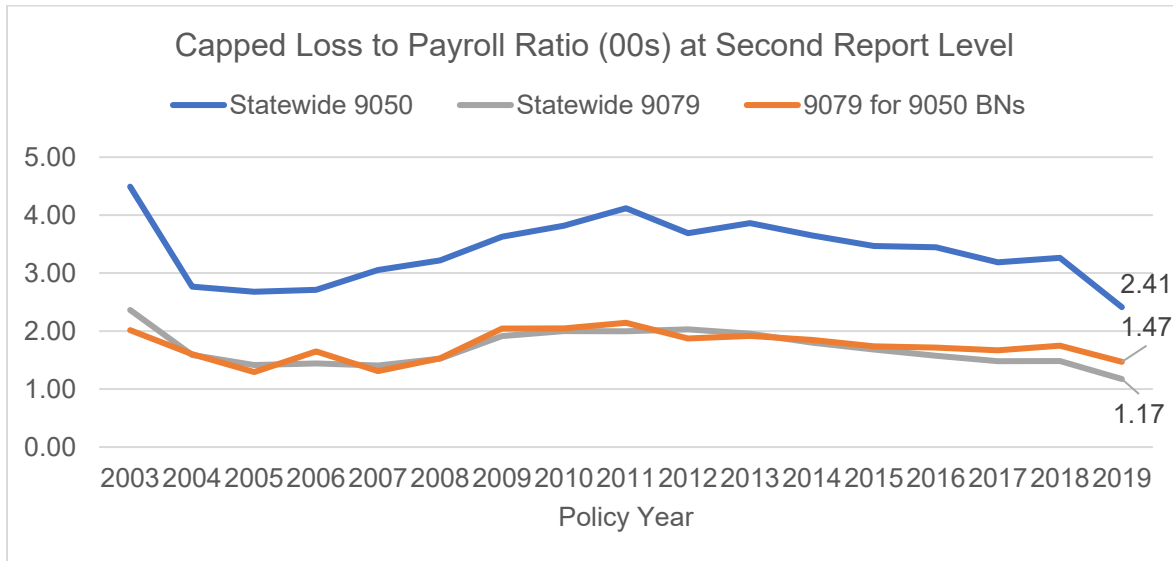
<sup>13</sup> Restaurants located adjacent to or in hotels or motels but owned and operated by a third party were not included in this segment. A small number of hotel and motel employers also had reported payroll in Classification 8078. These employers accounted for about 0.7% of reported payroll in Classification 9050 for all hotel and motel employers and their 8078 operations accounted for about 0.05% of reported payroll in Classification 8078. The 8078 operations of hotels and motels were not included in the hotel food and beverage service analysis in the study, but the WCIRB is proposing including any food or beverage services owned and operated by a hotel or motel in the proposed Classification 9058, *Hotels, Motels or Short-Term Residential Housing – food or beverage employees*.

<sup>14</sup> Hotel or motel employees who perform food or beverage operations and hotel/motel activities are assigned to Classification 9050.

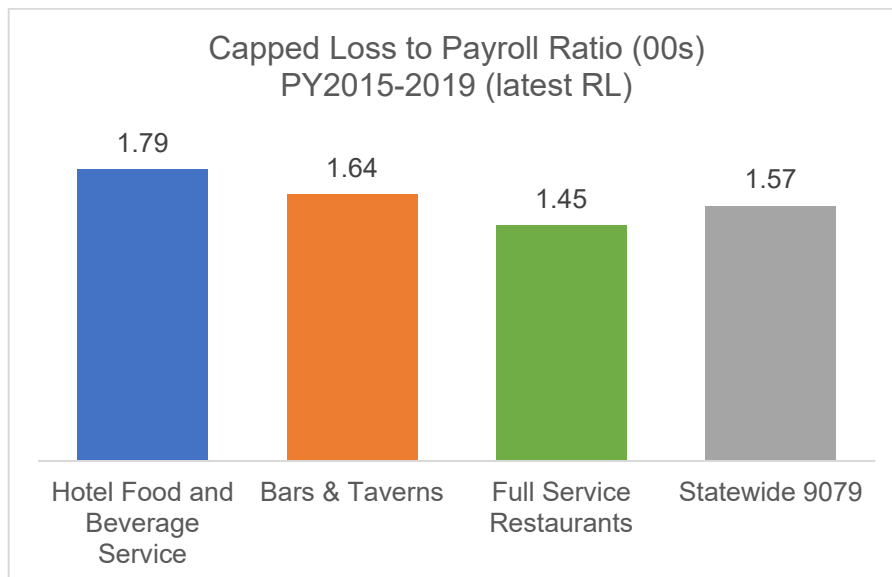
<sup>15</sup> Hotel food and beverage service operations were identified as employers with reported payroll in Classifications 9050 and 9079, and for which payroll reported in Classification 9050 was higher than the sum of other associated classifications that do not include restaurant operations. Classification 9050 includes both hotels and motels, but an inspection report analysis revealed that the vast majority of hotel and motel employers with reported payroll in Classification 9079 were hotels.

7). The loss to payroll ratio trend for hotel food and beverage service closely tracked the statewide restaurant trend but the two trends began to diverge modestly in recent years. As shown in Figure 8, the five-year combined historical loss to payroll ratio for hotel food and beverage service was 14% higher than that for all Classification 9079 experience, mostly driven by higher average claim severity for hotel food and beverage service operations. While hotel food and beverage service had loss to payroll ratios similar to the bars and taverns segment, they had significantly higher loss to payroll ratios than the full service restaurants segment, potentially related to the distinct hotel food and beverage service operations, such as room service.

**Figure 7. Historical Capped Loss to Payroll Ratios at Second Report Level Comparing Statewide Classification 9050, 9079 and Hotel Food and Beverage Service<sup>16</sup>**



**Figure 8. Historical Capped Loss to Payroll Ratios Comparing Hotel Food and Beverage Service to Bars and Taverns, Full Service Restaurants and Statewide Classification 9079<sup>17</sup>**



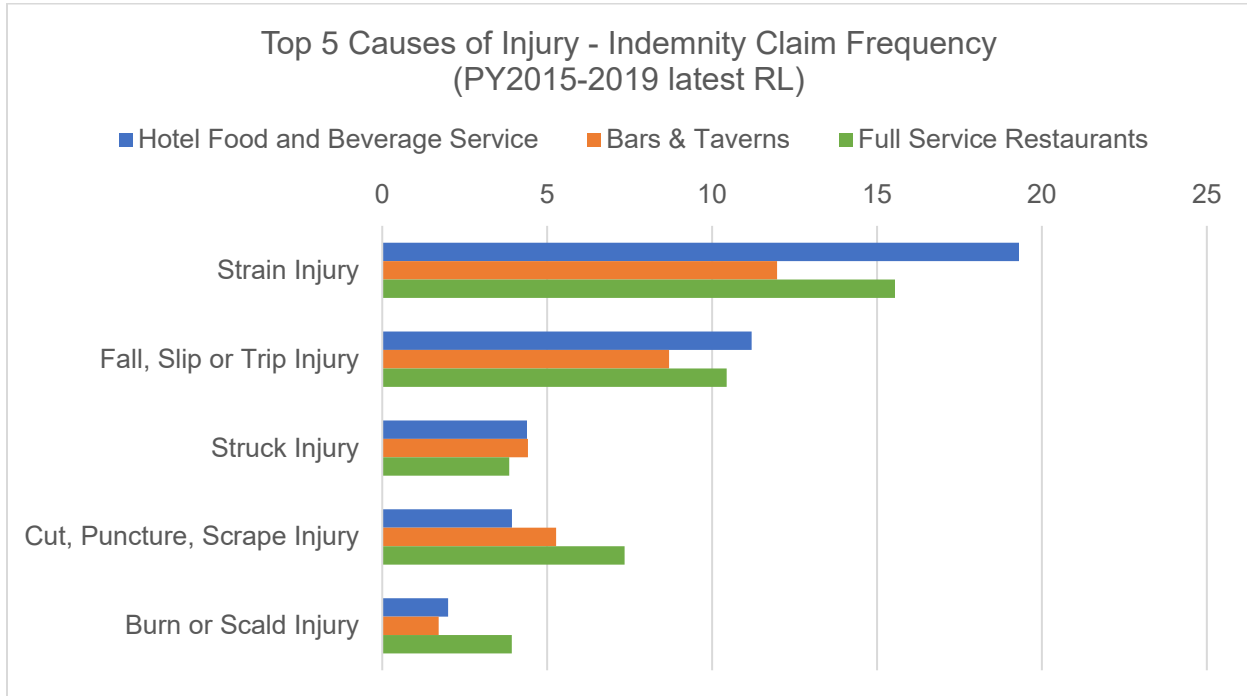
<sup>16</sup> Loss to payroll ratios were calculated using losses capped at \$500,000 per claim and payroll reported at the second report level for PY2003-2018. PY2019 losses and payroll were reported at the first report level.

<sup>17</sup> For the purpose of the study, the bars and taverns segment and full service restaurants segment in Figures 8 through 10 include a small number of hotel food and beverage service employers as hotel food and beverage service includes onsite bars/taverns and full service restaurants. However, the proposed Classifications 9058, 9084 and 9080 are mutually exclusive. A hotel food and beverage employer will be assigned to Classification 9058 only.

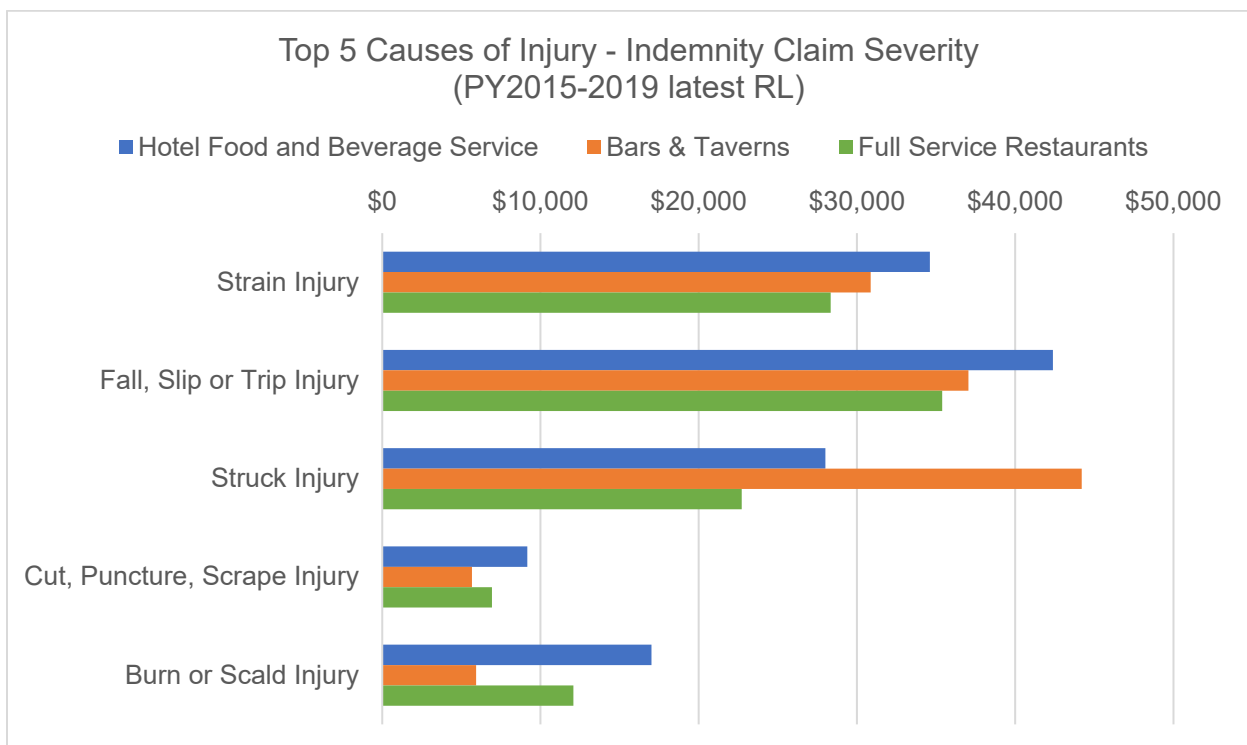


For leading causes of injuries, hotel food and beverage service had a higher indemnity claim frequency for strain injuries and fall injuries but lower frequency for cut and burn injuries than both the bars and taverns and full service restaurants segments (Figures 9 and 10). Overall, hotel food and beverage service had more severe indemnity claims than the bars and taverns and full service restaurants segments for most of the typical causes of injuries.

**Figure 9. Indemnity Claim Frequency for the Top Five Leading Causes of Injuries Comparing Hotel Food and Beverage Service to Bars and Taverns and Full Service Restaurants**



**Figure 10. Indemnity Claim Severity for the Top Five Leading Causes of Injuries Comparing Hotel Food and Beverage Service to Bars and Taverns and Full Service Restaurants**



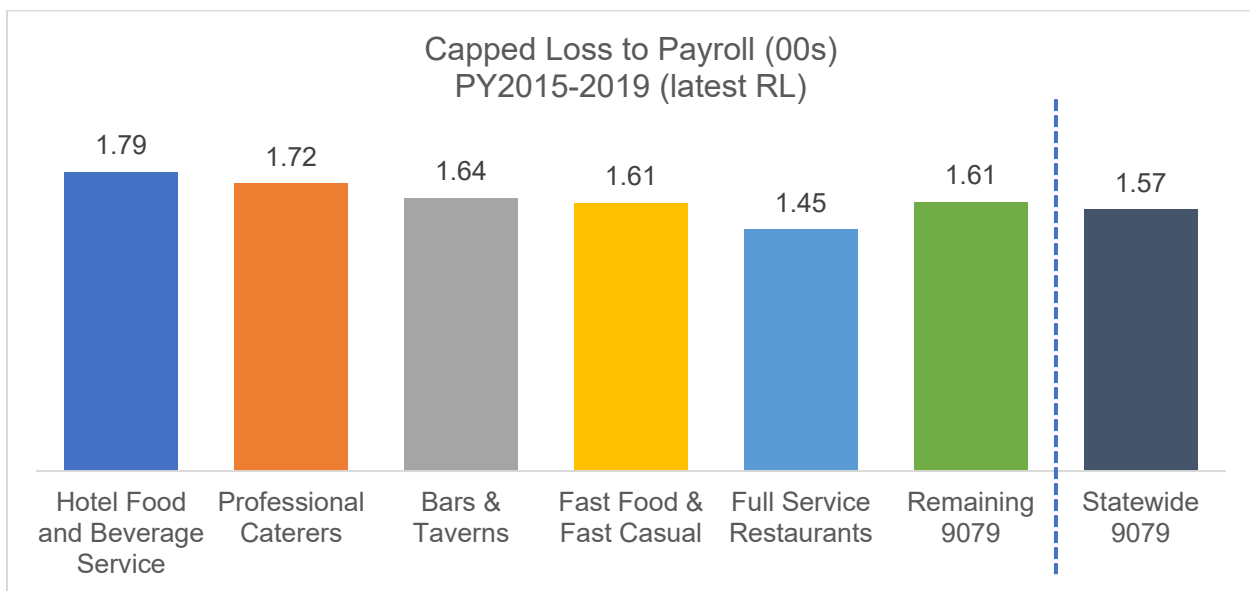
In summary, hotel food and beverage service operates differently from typical full service restaurants or bars and taverns assigned to Classification 9079. Hotel food and beverage service operations also had higher loss to payroll ratios than the bars and taverns and full service restaurants segments as well as all Classification 9079 experience for the recent five years, partly driven by different frequency and severity of leading causes of injuries.

## 6. Remaining Operations in Classification 9079

The remaining operations in Classification 9079 include employers whose operations could not be definitively identified in the available data as belonging to one of the study segments and therefore were not included in any of the segments discussed above. For example, remaining operations would include doughnut shops or hot food served in connection with grocery stores or by food trucks as well as employers whose specific operations could not be definitively identified.

As shown in Figure 11, the historical loss to payroll experience of different industry segments indicates differentiated workers' compensation risk exposure. In particular, the hotel food and beverage service segment and professional caterers segment both had significantly higher (about 20%) loss to payroll ratios than full service restaurants. The remaining segment of Classification 9079 had a capped loss to payroll ratio slightly lower than those for the hotel food and beverage service, professional caterers and bars and taverns segments and equal to or slightly higher than those for the other segments studied.

**Figure 11. Historical Capped Loss to Payroll Ratios Comparing Identified Segments to Statewide Classification 9079**



## Findings

The findings of this study include:

1. Five segments with distinct operations were identified from the operations assigned to Classification 9079: bars and taverns, professional caterers, fast food and fast casual restaurants, full service restaurants and hotel food and beverage service. The remaining employers classified in 9079 include employers whose operations are not characterized by one of the segments listed above as well as employers whose specific operations could not be definitively characterized based on available data.
2. For purposes of this study, the bars and taverns segment is defined as business operations that have been issued license types 42, 48 or 61 by the California Department of Alcoholic Beverage Control. As specified by these licenses, bars and taverns may, but are not required to, prepare or serve food.. Bars and taverns operate differently from other segments in that the primary

operation is the preparing, pouring and serving of alcoholic beverages and minors are not allowed on the premises. Based on a credible sample of Classification 9079 employers assigned in this manner to the bars and taverns segment, the loss to payroll ratios of bars and taverns were slightly higher than those of all Classification 9079 employers. In addition, the COVID-19 pandemic may have permanently changed some aspects of bar and tavern operations, the effects of which are not yet reflected in the available data.

3. For purposes of this study, the professional caterers segment is defined as businesses hired to provide hot and cold food and beverage services for specific events at customer designated locations and excludes businesses with brick-and-mortar locations that serve food or beverage to walk-in customers and full service restaurants that may perform catering as an added service. The operations of professional caterers are distinct from other food and beverage operations, mostly due to transportation and food service at event locations. Based on a credible sample of Classification 9079 employers assigned in this manner to the professional caterers segment, the loss to payroll ratios of professional caterers were higher than those of all Classification 9079 employers. Professional caterers have also been heavily impacted by the pandemic and may have evolved to providing new types of food services. More recent data is needed to evaluate these new trends.
4. For purposes of this study, the fast food and fast casual restaurants segment is defined as restaurant operations preparing hot and cold food with limited to no table service that require customers to pay before eating. Based on a credible sample of Classification 9079 employers assigned in this manner to the fast food and fast casual restaurants segment, their historical payroll and loss experience appears to be modestly different from that of other segments and that of Classification 9079 as a whole.
5. For purposes of this study, the full service restaurants segment is defined as restaurant operations preparing and serving hot and cold food with wait staff and table service that require customers to pay after eating. Based on a credible sample of Classification 9079 employers assigned in this manner to the full service restaurants segment, the loss to payroll ratios for the full service restaurants were lower than those of all Classification 9079 employers. The pandemic had a significant impact on full service restaurants since many restaurants discontinued dine-in services and pivoted to providing solely take-out or using a third party for delivery. While many full service restaurants have started to resume dine-in services, labor shortages have created further challenges for this as well as other segments in the industry, such as employment of relatively inexperienced employees who may be more likely to have work-related injuries.
6. Food and beverage operations are common in the hotel and motel industry and are currently separately assigned to Classification 9079. In this study, hotel food and beverage service in Classification 9079 is defined as restaurants, bars and taverns owned and operated by hotels or motels, room service provided by the hotel or motel restaurant and the restocking of in-room refrigerators. Hotel food and beverage service operations are located adjacent to or in hotels or motels. Hotel food and beverage service operates differently than other types of food and beverage operations assigned to Classification 9079 and for the recent five years has had higher loss to payroll ratios than those of Classification 9079 experience as a whole, partly driven by the differences in frequency and severity of the leading causes of injuries. Like other segments of Classification 9079, hotel food and beverage service operations have also been significantly impacted by the pandemic.

## **Recommendations**

Based on these findings, the WCIRB recommends:

1. Establishing Classification 9084, *Bars or Taverns – not restaurants*, to apply to bars and taverns that operate under one of three California Department of Alcoholic Beverage Control liquor licenses (type 42, 48 or 61).
2. Establishing Classification 9082, *Caterers – not restaurants*, to apply to professional or event caterers with no fixed location for customer dining or for the preparation of individually ordered meals for take-out.

3. Establishing Classification 9083, *Restaurants – fast food or fast casual*, to apply to fast food or fast casual restaurants with limited to no table service and that require customers to pay before eating.
4. Establishing Classification 9080, *Restaurants – full service*, to apply to full service restaurants with table service and that require customers to pay after eating.
5. Establishing Classification 9058, *Hotels, Motels or Short-Term Residential Housing – food or beverage employees*, to apply to the food and beverage services operated by and located at or near a hotel, motel or short-term residential housing employer as a companion classification to Classification 9050, *Hotels, Motels or Short-Term Residential Housing*.
6. Establishing Classification 9081(1), *Restaurants – N.O.C.*, to apply to various hot and cold food operations that are not more accurately described by another classification.
7. Eliminating Classification 9079(1), *Restaurants or Taverns – all employees – including musicians and entertainers*, and reassigning its constituents to one of the newly established Food and Beverage Industry Group classifications or Classification 9058, *Hotels, Motels or Short-Term Residential Housing – food or beverage employees*.
8. Amending 9079(2), *Concessionaires*, to assign a new four digit classification code for consistency with other proposed changes.
9. Combining Classifications 9084, 9082, 9083, 9080, 9058, 9081(1) and 9081(2) for ratemaking purposes until sufficient payroll and loss data in each of these classifications have been collected and an analysis of that data supports the establishment of different advisory pure premium rates.
10. Establishing a Food and Beverage Service Industry Group to include newly established Classifications 9084, 9082, 9083 and 9080 and Classifications 9081(1), 9081(2), 8078(1), 8078(2) and 8078(3).

Given the impact of this change on employers, the WCIRB recommends that these changes be included in the September 1, 2023 Regulatory Filing with a proposed effective date of September 1, 2024. If adopted by the Insurance Commissioner, this will allow the WCIRB to conduct extensive outreach prior to the September 1, 2024 effective date.

## **Appendix I: History of Classifications 9079 and 9050**

The following is a timeline of significant changes to the scope and application of **Classifications 9079(1), Restaurants or Taverns**, and **9079(2), Concessionaires**:

- **1915:** Classifications 9071, *Restaurants*, and 9069, *Catering – including services away from store*, are original Manual classifications.
- **1929:** Classification 9079, *Restaurants*, was established and included clerical office employees. Classification 9091, *Caterers – including clerical office employees*, was established.
  - Classification 9071, *Restaurants*, was eliminated and its constituents were reassigned to Classification 9079.
  - Classification 9069, *Caterers*, was eliminated and its constituents were reassigned to Classification 9091.
- **1937:** Three new classifications were established under Classification 9079: *Vending Concessionaires – dispensing food, drinks, candy, etc., at ball parks, race tracks, theaters and exhibitions*; *Caterers – including Clerical Office Employees*; and *Beer Gardens, Parlors or Taverns – including musicians, entertainers or Clerical Office Employees*.
  - Classification 9091, *Caterers – including Clerical Office Employees*, was eliminated and its constituents were reassigned to Classification 9079, *Caterers*.
- **1938:** Classification 9079, *Beer Gardens, Parlors or Taverns*, was eliminated and its constituents were reassigned to Classification 8012, *Beer Gardens, Parlors or Taverns (On Sale Permit) – including musicians, entertainers or Clerical Office Employees*.
- **1945:** Classification 9079, *Restaurants*, was amended to include taverns.
  - Classification 8012, *Beer Gardens, Parlors or Taverns (On Sale Permit)*, was eliminated and its constituents were reassigned to Classification 9079, *Restaurants or Taverns*.
- **1947:** Classification 9079, *Caterers*, was eliminated.
- **1957:** Classification 9079, *Vending Concessionaires*, was amended to include clerical office employees and salesmen.
- **1970:** Classification 9079, *Restaurants or Taverns*, was amended to include all employees and exclude clerical office employees. Classification 9079, *Vending Concessionaires*, was amended to exclude clerical office employees and salesmen.
- **2003:** Classification 9079(1) was amended to include the preparing and serving of hot and cold food items for consumption on or away from the premises or the preparing, pouring and serving of alcoholic beverages for consumption on the premises, and a definition of hot food.
- **2014:** Classification 9079(1) was amended to include the operation of mobile food trucks wherein hot food is prepared for sale to customers.
- **2015:** Classification 9079(1) was amended to clarify mobile food vending operations includes the use of food trucks, trailers, carts or temporary booths wherein hot food is prepared for sale to customers.
- **2016:** Classification 9079(1) was amended to include doughnut shops.
- **2019:** Classification 9079(1) was amended to include brewery taproom operations and on-site beer making operations performed by restaurants where the beer brewed on-site is primarily sold to the general public for consumption on the premises.
- **2020:** Classification 9079(1) was amended to include the manufacture of baked goods (baked or fried) or filled pasta, including but not limited to ravioli and tortellini, by restaurants to be used or sold at restaurant locations operated by the same employer.

The following is a timeline of significant changes to the scope and application of **Classification 9050, Hotels, Motels or Short-Term Residential Housing**:

- **1915:** Classifications 9009, *Hotels – excluding laundry*, and 9005, *Apartment Hotels and Hotel Apartments (excluding laundry)*, are original Manual classifications.
- **1916:** Classification 9050, *Hotels – excluding laundry*, was established.
  - Classification 9009, *Hotels*, was eliminated and its constituents were reassigned to Classification 9050, *Hotels*.
- **1924:** Classification 9050, *Apartment Hotels and Hotel Apartments*, was established.
  - Classification 9005, *Apartment Hotels and Hotel Apartments (excluding laundry)*, was eliminated and its constituents were reassigned to Classification 9050, *Apartment Hotels and Hotel Apartments*

- **1929:** Classification 9052, *Hotels*, was established and included clerical office employees. Classification 9052, *Apartment Hotels and Hotel Apartments*, was established.
  - Classification 9050, *Hotels*, was eliminated and its constituents were reassigned to Classification 9052, *Hotels*.
  - Classification 9050, *Apartment Hotels and Hotel Apartments*, was eliminated and its constituents were reassigned to Classification 9052, *Apartment Hotels and Hotel Apartments*.
- **1930:** Classification 9052, *Hotels*, was amended to include all employees.
- **1938:** Classification 9052, *Apartment Hotels and Hotel Apartments*, was amended to include all employees including clerical employees.
- **1947:** Classification 9052, *Hotels*, was amended to include salesmen. Classification 9024, *Motor Courts, Motels, Auto Courts*, was established.
  - Classification 9052, *Apartment Hotels and Hotel Apartments*, was eliminated and its constituents were assigned to Classification 9024, *Motor Courts, Motels, Auto Courts*.
- **1950:** Classification 9052, *Motor Courts, Motels, Auto Courts*, was established.
  - Classification 9024, *Motor Courts, Motels, Auto Courts*, was eliminated and its constituents were reassigned to Classification 9052, *Motor Courts, Motels, Auto Courts*
- **1960:** Classification 9052, *Hotels*, was amended to include restaurant or tavern employees, but this was not a change in classification procedure.
- **1964:** Classifications 9050, *Hotels*, and 9050, *Motels*, were established
  - Classification 9052, *Hotels*, was eliminated and its constituents were reassigned to Classification 9050, *Hotels*, which directed that restaurants or taverns were separately rated.
  - Classification 9052, *Motels*, was eliminated and its constituents were reassigned to Classification 9050, *Motels*, which directed that restaurants or taverns were separately rated.
- **1970:** Classifications 9050, *Hotels*, and 9050, *Motels*, were amended to exclude clerical office employee and salesmen and to include front desk employees.
- **2013:** Classifications 9050(1), *Hotels*, and 9050(2), *Motels*, were amended to include concierge services and retail operations; direct that employees who prepare and serve hot food in connection with complimentary breakfasts, work in food and beverage departments and deliver food or restock in-room refrigerators, provided such employees perform no hotel duties, are assignable to Classification 9079(1), *Restaurants or Taverns*; and direct that employees who perform both restaurant or tavern activities and hotel activities shall be assigned to Classification 9050(1) or 9050(2).
- **2020:** Classification 9050, *Hotels, Motels or Short-Term Residential Housing*, was established to apply to hotel operations and motel and short-term rental housing operations.
  - Classification 9050(1), *Hotels*, was eliminated and its constituents were reassigned to Classification 9050, *Hotels, Motels or Short-Term Residential Housing*.
  - Classification 9050(2), *Motels*, was eliminated and its constituents were reassigned to Classification 9050, *Hotels, Motels or Short-Term Residential Housing*.

## **Appendix II: Classification of Food and Beverage Operations in Other Jurisdictions**

Similar to the WCIRB, the Workers' Compensation Rating and Inspection Bureau of Massachusetts (Massachusetts Bureau), Compensation Advisory Organization of Michigan (Michigan Bureau) and New Jersey Compensation Rating and Inspection Bureau (New Jersey Bureau) direct that the preparing and serving of hot and cold food for consumption on or away from the premises and the preparing, pouring and serving of alcoholic beverages for consumption on the premises are classified as one classification. This classification includes bars and taverns, full service restaurants, professional caterers and fast food and fast casual establishments.

Other jurisdictions have multiple classifications for the restaurant industry described below:

- **Bars and Taverns**

The National Council on Compensation Insurance (NCCI), Minnesota Workers' Compensation Insurers Association, Inc. (Minnesota Bureau), New York Compensation Insurance Rating Board (New York Board), North Carolina Rate Bureau (North Carolina Bureau), Pennsylvania Compensation Rating Bureau (Pennsylvania Bureau) and Wisconsin Compensation Rating Bureau (Wisconsin Bureau) define bars and taverns as employers whose principal receipts are derived from the sale of alcoholic beverages such as beer, liquor or wine, and direct that these operations are separately classified from full service restaurants with wait staff, professional caterers whose principal receipts are derived from the sale of prepared food and fast food and fast casual establishments

- **Professional Caterers**

The NCCI, Minnesota, North Carolina and Wisconsin Bureaus and New York Board direct that professional catering operations whose principal receipts are derived from the sale of prepared food are classified in the same classification as full service restaurant operations with wait staff.

The Pennsylvania Bureau directs that professional catering operations whose principal receipts are derived from the sale of prepared food are classified in the same classification as cafeterias, concessionaires and mobile food vending operations. This classification does not include full service restaurants with wait staff, bars and taverns and fast food and fast casual establishments.

- **Fast Food / Fast Casual**

The NCCI, Minnesota, North Carolina, Pennsylvania and Wisconsin Bureaus and New York Board define fast food restaurants as employers that do not employ wait staff and for which principal receipts are derived from the sale of prepared foods. These operations are classified separately from bars and taverns, full service restaurants with wait staff and professional caterers whose principal receipts are derived from the sale of prepared food.

In addition, the New York Board specifies that take-out service for fast food restaurants must account for more than 50% of gross receipts.

- **Full Service Restaurants**

The NCCI and Minnesota, North Carolina, Pennsylvania and Wisconsin Bureaus direct that restaurants that cannot otherwise be classified in an existing classification are classified in each bureau's respective N.O.C. restaurant classification. These respective N.O.C. restaurant classifications do not include bars and taverns or restaurants that do not employ wait staff, such as fast food and fast casual establishments.

The New York Board directs that full service restaurants and similar types of food service establishments, provided there is wait service and more than 50% of sales are derived from the service of food consumed on the premises, are classified separately from bars and taverns and fast food and fast casual establishments.

- **Hotel Food and Beverage Service**

The NCCI, Massachusetts, Minnesota, North Carolina, Pennsylvania and Wisconsin Bureaus and New York Board direct that restaurant employees who work under the direct management of hotels, motels or similar operations are classified separately from other hotel and motel operations. This hotel and motel restaurant classification functions as a companion code for the hotel classification in these jurisdictions.

The Michigan and New Jersey Bureaus do not direct that restaurant employees who work under the direct management of hotels, motels or similar operations are separately classified. These operations are classified in each respective Bureau's single restaurant classification.

**Recommendation**

Amend Part 3, *Standard Classification System*, Section VII, *Standard Classifications*, Rule 1, *Classification Section*, subrule a, *Industry Groups*, to reflect the proposed establishment of Food and Beverage Service as an industry group and to renumber the subsequent listings in the Rule.

PROPOSED

**Section VII – Standard Classifications**

**1. Classification Section**

This section contains an alphabetical listing of classifications that describe most occupations, employments, industries and businesses. The classifications are organized as follows:

a. Industry Groups

Some classifications are grouped alphabetically under industry groupings to assist users in identifying and assigning classifications within similar industries. Construction-related classifications are listed in Appendix I, *Construction and Erection Classifications*. The following other industry groups are incorporated into the classifications listed in Rule 2, *Standard Classifications*, below:

- (1) Aircraft Operation
- (2) Automotive Industry
- (3) Electronics
- (4) Farms
- (4)(5) Food and Beverage Service
- (5)(6) Food Packaging and Processing
- (6)(7) Health and Human Services
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**Recommendation**

Establish Classification 9081(1), *Restaurants or Taverns*, to be included as part of the proposed Food and Beverage Service Industry Group, to apply to restaurants that are not more specifically described by another Food and Beverage Service Industry Group classification.

PROPOSED

**FOOD AND BEVERAGE SERVICE**

**RESTAURANTS – N.O.C.**

**9081(1)**

This classification applies to restaurants that prepare and serve hot and cold food and may pour and serve alcoholic beverages for consumption by the walk-in trade on or away from the premises, and that are not more specifically described by another *Food and Beverage Service Industry Group* classification.

This classification includes but is not limited to:

- hot food departments within grocery stores;
- mobile food vending operations involving the use of food trucks, trailers, carts or temporary booths wherein hot food is prepared for sale to customers;
- doughnut shops that prepare and serve doughnuts and beverages or food for consumption on the premises; and
- food or beverage operations conducted by amusement, recreational or athletic facilities.

Hot food items are foods that are cooked to order from a raw or partially cooked state to a safe consumable minimum internal temperature using cooking equipment, including but not limited to deep fryers, ovens, stovetops, griddles, barbecues, grills, hot plates and pressure or steam cookers and served hot for consumption by the walk-in trade. This also includes foods that are cooked in advance and served from a warming tray or similar device.

This classification includes musicians and entertainers employed by the restaurant.

The manufacture of baked goods, doughnuts or filled pasta that are not used or sold at restaurant locations operated by the same employer shall be classified as 2003, *Bakeries or Cracker Mfg.*

Employers that do not operate restaurants but manufacture or process individually packaged meals or salads that are not cooked to order, kept warm or served hot to the walk-in trade shall be classified as 6504, *Food Products Mfg. or Processing.*

Mobile food vendors, including food trucks, trailers, carts or temporary booths, that do not prepare and serve hot food shall be classified as 8017(1), *Stores – retail*, 8078(1), *Sandwich Shops*, 8078(2), *Beverage Preparation Shops*, or 8078(3), *Ice Cream or Frozen Yogurt Shops*, depending on the products sold.

App-based on-demand Delivery Network Companies (DNC) that deliver restaurant meals on a fee basis shall be classified as 7198(1), *Parcel Delivery and Messenger Service Companies.*

Employers that operate under concessionary agreements to sell prepared or prepackaged hot or cold food or beverages, including but not limited to hot dogs, hamburgers, pretzels, french fries, popcorn, nachos, ice cream, candy, funnel cakes, soft drinks and alcoholic beverages at ball parks, racetracks, theaters, concert venues or amusement or recreational facilities shall be classified as 9081(2), *Concessionaires.*

Refer to the *Food and Beverage Service Industry Group* for a complete list of classifications applicable to the preparation or serving of food or beverages.

\* \* \* \* \*

**Recommendation**

Eliminate Classification 9079(1), *Restaurants or Taverns*, and reassign the operations described by this classification to Classifications 9081(1), *Restaurants – N.O.C.*, 9058, *Hotels, Motels or Short-Term Residential Housing – food or beverage employees*, 9084, *Bars or Taverns – not restaurants*, 9083, *Restaurants – fast food or fast casual*, 9080, *Restaurants – full service*, or 9082, *Caterers – not restaurants*, based on the operations performed and for consistency with other proposed changes.

PROPOSED

**RESTAURANTS OR TAVERNS – all employees – including musicians and entertainers 9079(1)**

~~This classification applies to the preparation and serving of hot and cold food for consumption on or away from the premises or the preparation, pouring and serving of alcoholic beverages for consumption on the premises.~~

~~This classification also applies to mobile food vending operations involving the use of food trucks, trailers, carts or temporary booths wherein hot food is prepared for sale to customers.~~

~~This classification also applies to taprooms at breweries, including product tasting in connection therewith.~~

~~This classification also applies to restaurants that engage in on-site beer brewing operations where the beer brewed on-site is primarily sold to the general public for consumption on the premises. If 50% or more of the beer brewed on-site is sold for off-site consumption, the brewing operations shall be separately classified as 2121, *Breweries*.~~

~~Hot foods items are foods that are cooked to order and served hot to customers or foods that are cooked in advance and served from a warming tray or similar device.~~

~~This classification also applies to doughnut shops that prepare and serve doughnuts and beverages for consumption on the premises.~~

~~This classification includes the manufacture of baked goods, doughnuts (baked or fried) or filled pasta, including but not limited to ravioli and tortellini, by restaurants to be used or sold at restaurant locations operated by the same employer. If the baked goods, doughnuts or filled pasta are not used or sold at the employer's restaurants, the manufacturing operations shall be classified as 2003, *Bakeries or Cracker Mfg.*~~

~~Mobile food vending operations that do not include the preparation of hot food shall be classified as 8017(1), *Stores – retail*, 8078(1), *Sandwich Shops*, 8078(2), *Beverage Preparation Shops*, or 8078(3), *Ice Cream or Frozen Yogurt Shops*, depending on the products sold.~~

~~Employers that operate under concessionary agreements to sell prepared or prepackaged hot or cold food or beverages, including but not limited to hot dogs, hamburgers, pretzels, french fries, popcorn, nachos, ice cream, candy, funnel cakes, soft drinks and alcoholic beverages at ball parks, racetracks, theaters, concert venues or amusement or recreational facilities shall be classified as 9079(2), *Concessionaires*.~~

\* \* \* \* \*

**Recommendation**

Amend Classification 9079(2), *Concessionaires*, to be included as part of the proposed Food and Beverage Service Industry Group, to establish a unique classification for these operations to eliminate confusion and for consistency with other proposed changes.

PROPOSED

**FOOD AND BEVERAGE SERVICE**

**CONCESSIONAIRES – dispensing food ~~and/or~~ beverage items at ball parks, racetracks, theaters, concert venues ~~and/or~~ amusement ~~and/or~~ recreational facilities** **90799081 (2)**

This classification applies to employers that operate under concessionary agreements to sell prepared or prepackaged hot ~~and/or~~ cold food items, including but not limited to hot dogs, hamburgers, pretzels, french fries, popcorn, nachos, ice cream, candy, funnel cakes, soft drinks and alcoholic beverages at ball parks, racetracks, theaters, concert venues ~~and/or~~ amusement ~~and/or~~ recreational facilities.

~~Employers that operate under concessionary agreements to sell items other than food and beverage products shall be classified depending on the products sold.~~

This classification does not apply to food ~~and/or~~ beverage vendors selling at locations other than those specified. Mobile food vendors engaged in the retail sale of beverages or packaged ~~and/or~~ cold foods ~~and beverages~~ from food trucks, trailers, carts or temporary booths, including the incidental storage of such merchandise, shall be classified as 8017(1), *Stores – retail*, 8078(1), *Sandwich Shops*, 8078(2), *Beverage Preparation Shops*, or 8078(3), *Ice Cream or Frozen Yogurt Shops*, depending on the products sold. The operation of mobile food trucks, trailers, carts or temporary booths wherein hot food is prepared for sale to customers shall be classified as 90799081(1), ~~*Restaurants or Taverns – N.O.C.*~~

Employers that operate under concessionary agreements to sell items other than food or beverage products shall be classified depending on the products sold.

\* \* \* \* \*

**Recommendation**

Amend Classification 8078(1), *Sandwich Shops*, to be included as part of the proposed Food and Beverage Service Industry Group, for clarity and consistency with other proposed changes and to provide direction as to how related operations should be classified.

PROPOSED

**FOOD AND BEVERAGE SERVICE**

**SANDWICH SHOPS—~~not restaurants~~ – N.O.C. – not restaurants** **8078(1)**

This classification applies to the preparation, serving or sale of cold food items such as sandwiches, salads and side dishes that are prepared for consumption by the walk-in trade. This classification shall apply to each separate location at which the sale of prepared cold food items for consumption on or away from the premises equals or exceeds 50% of gross receipts.

Cold food items are foods that are prepared and served cold or cooked in advance of orders and allowed to cool. This classification includes the incidental warming of cold food items using microwave ovens, toaster ovens or heat lamps and the preparation of sandwiches with meats that are kept warm in a steam table.

~~This Classification 8078(1) also applies to stores that prepare the preparation and sale of fresh, unbaked pizzas.~~

~~Sandwich shops that~~ This classification does not apply to locations that: (1) prepare and serve hot food, or (2) pour and serve alcoholic beverages for consumption on the premises or prepare and serve hot food for consumption on or away from the premises by the walk-in trade. Such operations shall be assigned to Classification 9079(1), *Restaurants or Taverns* the applicable *Food and Beverage Service Industry Group* classification.

\* \* \* \* \*

### Recommendation

Amend Classification 9050, *Hotels, Motels or Short-Term Residential Housing*, for clarity and consistency with other proposed changes and to reference the corresponding proposed companion Classification 9058, *Hotels, Motels or Short-Term Residential housing – food or beverage employees*.

### PROPOSED

#### **HOTELS, MOTELS OR SHORT-TERM RESIDENTIAL HOUSING – all employees other than employees engaged exclusively in food or beverage operations** 9050

**When lodging is provided by the employer, the total remuneration shall include the market value of such lodging to the employee.**

This classification applies to the operation of hotels, motels or short-term residential housing. This classification includes all employees other than employees ~~exclusively engaged~~ exclusively in food or beverage operations, including restaurant, bar or tavern operations. Front desk, cashiering, concierge or retail store operations, and facility tours, including but not limited to tours for marketing or inspection purposes, are included in this classification.

Short-term residential housing, including but not limited to vacation rentals and timeshare properties, is defined as housing units that are rented for not more than 30 consecutive days. The operation of residential housing where more than 75% of units are rented for longer than 30 consecutive days shall be assigned to the applicable *Property Management/Operation* Industry Group classification.

~~The payroll of employees engaged exclusively in connection with restaurant or tavern operations shall be separately classified as 9079(1), *Restaurants or Taverns*. This includes employees who work in food or beverage departments, prepare or serve hot food in connection with complimentary breakfasts, or provide room service, including delivering food or restocking in room refrigerators, provided such employees perform no hotel duties. Employees who perform hotel, motel or short term residential housing operations and restaurant or tavern operations shall be assigned to Classification 9050.~~

Recreation, leisure or resort operations, including but not limited to country clubs, golf courses, yacht clubs, casinos, gaming clubs, spas, baths, health clubs, gyms, barber shops or hair salons shall be separately classified.

The payroll of employees who alternate between two or more separately classifiable operations shall be assigned in accordance with Section V, Rule 3, *Division of Single Employee's Payroll*.

The payroll of employees who do not engage in operations that are integral to each classifiable operation but perform operations in general support of more than one classifiable operation shall be assigned to the Governing Classification of the group of classifications to which their work pertains. Employees who perform general support operations include but are not limited to supervisors, maintenance workers, security guards, shipping and receiving clerks and yard employees.

Overnight retreat facilities that specialize in providing instruction or guidance through a scheduled program of activities or workshops structured to promote wellness or personal, spiritual or professional growth for participants shall be classified as 9048(1), *Camps or Retreat Facilities*.

Nonmedical residential care facilities, including but not limited to psychiatric, pre-parole or probation halfway houses that provide services in a group setting to persons who are capable of meeting their life support needs independently, but who temporarily need assistance, guidance and counseling shall be classified as 8804(2), *Social Rehabilitation Facilities for Adults*.

Also refer to companion Classification 9058, *Hotels, Motels or Short-term Residential housing – food or beverage employees*.

\* \* \* \* \*

### **Recommendation**

Establish Classification 9058, *Hotels, Motels or Short-Term Residential Housing – food or beverage employees*, as a companion classification to apply to employees engaged exclusively in food or beverage operations in connection with hotel, motel or short-term residential housing operations assigned to Classification 9050, *Hotel, Motel or Short-term Residential Housing*.

### PROPOSED

#### **HOTELS, MOTELS OR SHORT-TERM RESIDENTIAL HOUSING – food or beverage employees      **9058****

This classification applies to employees engaged exclusively in the following food or beverage operations in connection with the employer's hotel, motel or short-term residential housing operations:

- prepare or serve food or beverages in connection with restaurants, bars or taverns;
- set-up food or beverages in connection with the provision of continental breakfasts;
- prepare or serve sandwiches, beverages or ice cream;
- provide room service;
- restock in-room refrigerators; or
- on-site catering.

Refer to the *Food and Beverage Service Industry Group* for a complete list of classifications applicable to restaurant, bar or tavern operations that are not in connection with hotel, motel or short-term residential housing operations.

Also refer to companion Classification 9050, *Hotels, Motels or Short-Term Residential Housing – all employees other than employees engaged exclusively in food or beverage operations*.

\* \* \* \* \*

**Recommendation**

Establish Classification 9084, *Bars or Taverns – not restaurants*, to be included as part of the proposed Food and Beverage Service Industry Group, to apply to each separate and distinct bar, tavern, lounge or nightclub that operates under license types 42, 48 or 61, and to beer tasting or taproom locations.

PROPOSED

**FOOD AND BEVERAGE SERVICE**

**BARS OR TAVERNS – not restaurants**

**9084**

This classification applies to each separate and distinct bar, tavern, lounge or nightclub that operates under license types 42, 48 or 61 issued by the California Department of Alcoholic Beverage Control and that prepares, pours and serves alcoholic beverages, including wine, beer and spirits. Based on licensing specifications, employers may but are not required to prepare or serve food, and minors are not allowed to enter or remain on the premises.

This classification also applies to each beer tasting room or taproom location that operates under a license issued by the California Department of Alcoholic Beverage Control.

This classification includes musicians and entertainers employed by the bar or tavern.

The production of beer or similarly brewed beverages, including but not limited to ale, lager, porter, stout and malt liquor shall be separately classified as 2121, *Breweries*.

The production of distilled spirits, including but not limited to vodka, rum, whiskey, brandy, tequila and liqueurs shall be separately classified as 2142(2), *Distilling*.

Tasting rooms in connection with wine, sparkling wine or alcoholic cider production shall be classified as 8060, *Stores – wine, beer or spirits – retail*.

Restaurants shall be assigned to the applicable *Food and Beverage Service Industry Group* classification.

\* \* \* \* \*

## Recommendation

Establish Classification 9083, *Restaurants – fast food or fast casual*, to be included as part of the proposed Food and Beverage Service Industry Group, to apply to each separate and distinct restaurant with limited table service that prepares hot and cold food and may pour and serve alcoholic beverages for consumption by the walk-in trade on or away from the premises.

## PROPOSED

### FOOD AND BEVERAGE SERVICE

#### RESTAURANTS – fast food or fast casual

**9083**

This classification applies to each separate and distinct restaurant that prepares hot and cold food and may pour and serve alcoholic beverages for consumption by the walk-in trade on or away from the premises with limited table service, such that customers are required to:

- order food at a counter or through a drive through window, kiosk or web-based application;
- pay at the time of order; and
- seat themselves if dining on-site.

Fast food or fast casual restaurants may conduct limited table service including bringing paid orders to tables, refilling beverages or clearing tables.

Hot food items are foods that are cooked to order from a raw or partially cooked state to a safe consumable minimum internal temperature using cooking equipment, including but not limited to deep fryers, ovens, stovetops, griddles, barbeques, grills, hot plates and pressure or steam cookers and served hot for consumption by the walk-in trade. This also includes foods that are cooked in advance and served from a warming tray or similar device.

This classification also applies to restaurants that engage in on-site beer brewing operations where the beer brewed is primarily (over 50% of gross receipts) sold at restaurant locations operated by the same employer for on-site consumption. If 50% or more of the beer brewed on-site is sold for off-site consumption, the brewing operations shall be separately classified as 2121, *Breweries*.

The manufacture of baked goods, doughnuts or filled pasta that are not used or sold at restaurant locations operated by the same employer shall be classified as 2003, *Bakeries or Cracker Mfg.*

Restaurants providing full table service shall be classified as 9080, *Restaurants – full service*. Full table service includes but is not limited to greeting customers upon arrival, managing reservations, seating customers, taking orders, serving food or beverages, clearing tables and collecting payment upon completion of meal service.

Employers that do not operate restaurants but manufacture or process individually packaged meals or salads that are not cooked to order, kept warm or served hot to the walk-in trade shall be classified as 6504, *Food Products Mfg. or Processing*.

The preparation, serving or sale of cold food items such as sandwiches, salads and side dishes that are prepared for consumption by the walk-in trade shall be classified as 8078(1), *Sandwich Shops*.

Mobile food vendors that prepare hot food shall be classified as 9081(1), *Restaurants – N.O.C.* Mobile food vendors that do not prepare hot food shall be classified as 8017(1), *Stores – retail*, 8078(1), *Sandwich Shops*, 8078(2), *Beverage Preparation Shops*, or 8078(3), *Ice Cream or Frozen Yogurt Shops*, depending on the products sold.

App-based on-demand Delivery Network Companies (DNC) that deliver restaurant meals on a fee basis shall be classified as 7198(1), *Parcel Delivery and Messenger Service Companies*.

Refer to the *Food and Beverage Service Industry Group* for a complete list of classifications applicable to the preparation or serving of food or beverages.

\* \* \* \* \*

## **Recommendation**

Establish Classification 9080, *Restaurants – full service*, to be included as part of the proposed Food and Beverage Service Industry Group, to apply to each separate and distinct restaurant that has full table service, prepares and serves hot and cold food and may pour and serve alcoholic beverages for consumption by the walk-in trade on or away from the premises.

## PROPOSED

### **FOOD AND BEVERAGE SERVICE**

#### **RESTAURANTS – full service**

**9080**

This classification applies to each separate and distinct restaurant with full table service that prepares and serves hot and cold food and may pour and serve alcoholic beverages for consumption by the walk-in trade on or away from the premises.

Full table service includes but is not limited to:

- greeting customers and managing reservations;
- seating customers at tables;
- taking or receiving orders at tables;
- serving food or beverages;
- clearing tables; and
- collecting payment upon completion of meal service.

Hot food items are foods that are cooked to order from a raw or partially cooked state to a safe consumable minimum internal temperature using cooking equipment, including but not limited to deep fryers, ovens, stovetops, griddles, barbeques, grills, hot plates and pressure or steam cookers and served hot for consumption by the walk-in trade. This also includes foods that are cooked in advance and served from a warming tray or similar device.

This classification includes musicians and entertainers employed by the restaurant.

This classification also applies to restaurants that engage in on-site beer brewing operations where the beer brewed is primarily (over 50% of gross receipts) sold at restaurant locations operated by the same employer for on-site consumption. If 50% or more of the beer brewed on-site is sold for off-site consumption, the brewing operations shall be separately classified as 2121, *Breweries*.

The manufacture of baked goods, doughnuts or filled pasta that are not used or sold at restaurant locations operated by the same employer shall be classified as 2003, *Bakeries or Cracker Mfg.*

Fast food or fast casual restaurants with limited table service shall be classified as 9083, *Restaurants – fast food or fast casual*.



Employers that do not operate restaurants but manufacture or process individually packaged meals or salads that are not cooked to order, kept warm or served hot to the walk-in trade shall be classified as 6504, *Food Products Mfg. or Processing*.

Mobile food vendors that prepare hot food shall be classified as 9081(1), *Restaurants – N.O.C.* Mobile food vendors that do not prepare hot food shall be classified as 8017(1), *Stores – retail*, 8078(1), *Sandwich Shops*, 8078(2), *Beverage Preparation Shops*, or 8078(3), *Ice Cream or Frozen Yogurt Shops*, depending on the products sold.

App-based on-demand Delivery Network Companies (DNC) that deliver restaurant meals on a fee basis shall be classified as 7198(1), *Parcel Delivery and Messenger Service Companies*.

Refer to the *Food and Beverage Service* Industry Group for a complete list of classifications applicable to the preparation or serving of food or beverages.

\* \* \* \* \*

### **Recommendation**

Establish Classification 9082, *Caterers – not restaurants*, to be included as part of the proposed Food and Beverage Service Industry Group, to apply to employers engaged in the preparation, delivery and set-up or service of hot and cold food at customer-specified locations for weddings, conferences, parties, meetings or similar events.

## PROPOSED

### **FOOD AND BEVERAGE SERVICE**

#### **CATERERS – not restaurants**

**9082**

This classification applies to employers engaged exclusively in the preparation, delivery and set-up or service of hot and cold food at customer-specified locations for weddings, conferences, parties, meetings or similar events and includes the pouring and serving of beverages in connection with the employer's catering operations. Employers typically prepare large quantities of food in advance that are kept warm and served from a warming tray or similar device or reheated and served hot. Employers do not maintain a location for customers to dine-in or consume beverages, or for the preparation of individually ordered meals for consumption away from the premises.

Employers that do not operate restaurants but manufacture or process individually packaged meals or salads that are not cooked to order, kept warm or served hot to the walk-in trade shall be classified as 6504, *Food Products Mfg. or Processing*.

Mobile food vendors that prepare hot food shall be classified as 9081(1), *Restaurants – N.O.C.* Mobile food vendors that do not prepare hot food shall be classified as 8017(1), *Stores – retail*, 8078(1), *Sandwich Shops*, 8078(2), *Beverage Preparation Shops*, or 8078(3), *Ice Cream or Frozen Yogurt Shops*, depending on the products sold.

App-based on-demand Delivery Network Companies (DNC) that deliver restaurant meals on a fee basis shall be classified as 7198(1), *Parcel Delivery and Messenger Service Companies*.

Off-site catering operations performed by a restaurant or hotel shall be assigned to the applicable *Food and Beverage Service* Industry Group classification.

\* \* \* \* \*

**Recommendation**

Amend Classification 8078(2), *Beverage Preparation Shops – not bars or taverns*, to be included as part of the proposed Food and Beverage Service Industry Group and to provide direction as to how related operations should be classified.

PROPOSED

**FOOD AND BEVERAGE SERVICE**

**BEVERAGE PREPARATION SHOPS – not bars or taverns**

**8078(2)**

This classification applies to preparing and serving beverages such as coffee; coffee-based beverages such as mochas, cappuccinos, lattes, and espressos; tea or tea-based beverages; and juice drinks such as juice blends, smoothies, and lemonade, for consumption by the walk-in trade on or away from the premises. This classification shall apply to each separate location at which the sale of prepared nonalcoholic beverages for consumption on or away from the premises equals or exceeds 50% of gross receipts. This classification includes the sale of additional items, including but not limited to muffins, pastries and other baked goods.

~~Beverage preparation shops that pour and serve alcoholic beverages for consumption on the premises or that prepare and serve hot food for consumption on or away from the premises shall be assigned to Classification 9079(1), *Restaurants or Taverns*.~~

The bottling or canning of beverages or the manufacture of concentrates shall be separately classified.

This classification does not apply to locations that: (1) prepare and serve hot food or (2) pour and serve alcoholic beverages for consumption by the walk-in trade. Such operations shall be assigned to the applicable *Food and Beverage Service* Industry Group classification.

\* \* \* \* \*

**Recommendation**

Amend Classification 8078(3), *Ice Cream or Frozen Yogurt Shops*, to be included as part of the proposed Food and Beverage Service Industry Group and to provide direction as to how related operations should be classified.

PROPOSED

**FOOD AND BEVERAGE SERVICE**

**ICE CREAM OR FROZEN YOGURT SHOPS**

**8078(3)**

This classification applies to the sale of individual servings of ice cream or frozen yogurt for consumption by the walk-in trade on or away from the premises. This classification shall apply to each separate location at which the sale of individual servings of ice cream or frozen yogurt for consumption on or away from the premises equals or exceeds 50% of gross receipts. This

classification includes the incidental sale of hand packed ice cream or prepackaged ice cream confections sold as such.

~~Ice cream or frozen yogurt shops~~ This classification does not apply to locations that: (1) prepare and serve hot food or (2) pour and serve alcoholic beverages for consumption on the premises or prepare and serve hot food for consumption by the walk-in trade on or away from the premises shall be assigned to Classification 9079(1), Restaurants or Taverns. Such operations shall be assigned to the applicable Food and Beverage Service Industry Group classification.

\* \* \* \* \*

## Cross-Reference Updates

### Recommendation

Amend Part 3, *Standard Classification System*, Section III, *General Classification Procedures*, Rule 2, *Single Enterprise*, for clarity and consistency with other proposed changes.

### PROPOSED

#### 2. Single Enterprise

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#### Example

The employer operates a full service restaurant. Employees are retained as chefs, bakers, dishwashers, wait staff, hosts and hostesses, wine stewards, bartenders, janitors, car parking valets, coat check clerks, manager and assistant manager. In addition, a storage facility is operated at an additional location where restaurant supplies are stored pending use in the restaurant. The activities, duties, hazards and pay scales vary among positions. Classifications such as 2003, *Bakeries or Cracker Mfg.*, 9008, *Janitorial Services – by contractors*, and 8392, *Automobile or Truck Storage Garages or Parking Stations or Lots*, describe some of the employees' activities. However, the restaurant bakery only produces goods served in the restaurant; the janitors only clean the restaurant; the parking valets only park the vehicles of restaurant customers; and the storage facility only stores materials used in the restaurant. All of these operations normally prevail in the operation of a full service restaurant and, therefore, Classification ~~9079(1)~~9080, Restaurants or Taverns – full service, applies to all of the employees.

\* \* \* \* \*

**Recommendation**

Amend Part 3, *Standard Classification System*, Section IV, *Special Industry Classification Procedures*, Rule 5, *Stores*, subrules e and f, for consistency with other proposed changes.

PROPOSED

**5. Stores**

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- e. If a store maintains a department for the preparation and sale of hot foods, such operations shall be separately classified as 9079(1), ~~Restaurants or Taverns~~. Refer to the *Food and Beverage Service Industry Group* for a complete list of classifications applicable to the preparation or serving of food or beverages. The payroll of employees ~~that~~who interchange between store operations and the department engaged in the preparation and sale of hot foods shall be assigned in accordance with Section V, Rule 3, *Division of Single Employee's Payroll*.
- f. ~~Employers that engage in mobile food vending for vendors engaged in the retail sale of beverages or packaged and/or cold foods and beverages from food trucks, trailers, carts or temporary booths, including the incidental storage of such merchandise, shall be classified as 8017(1), *Stores – retail*, 8078(1), *Sandwich Shops*, 8078(2), *Beverage Preparation Shops*, or 8078(3), *Ice Cream or Frozen Yogurt Shops*, depending on the products sold. The operation of mobile food trucks, trailers, carts or temporary booths wherein hot food is prepared for sale to customers shall be classified as 9079(1), *Restaurants or Taverns* – N.O.C.~~

\* \* \* \* \*

**Recommendation**

Amend Classification 9092(1), *Bowling Centers*, to include bar employees and provide direction as to how related operations should be classified.

PROPOSED

**BOWLING CENTERS – with or without billiard halls – including restaurant, bar or tavern employees, retail store employees and counterpersons 9092(1)**

This classification applies to all operations of bowling centers open to the general public. This classification includes the operation of arcades, pro shops, billiard tables, restaurants, bars or taverns in connection with bowling centers where 50% or more of gross receipts are generated by bowling operations.

~~Restaurants or taverns with bowling lanes where the primary (over 50% of gross receipts) operations are restaurant or tavern operations shall be classified as 9079(1), *Restaurants or Taverns*.~~

Gaming arcades that are not operated in connection with bowling centers shall be classified as 8017(1), *Stores – retail*.

Restaurants, bars or taverns with bowling lanes where the primary (over 50% of gross receipts) operations are restaurant, bar or tavern operations shall be assigned to the applicable *Food and Beverage Service Industry Group* classification.

\* \* \* \* \*

**Recommendation**

Amend Classification 9092(2), *Billiard Halls*, to include bar employees and provide direction as to how related operations should be classified.

PROPOSED

**BILLIARD HALLS – including restaurant, bar or tavern employees, retail store employees and counterpersons** **9092(2)**

This classification applies to billiard halls that specialize in the hourly rental of billiard tables to the general public. This classification includes the operation of arcades, pro shops, restaurants, bars or taverns in connection with billiard halls where 50% or more of gross receipts are generated by billiard operations.

~~Restaurants or taverns with billiard tables where the primary (over 50% of gross receipts) operations are restaurant or tavern operations shall be classified as 9079(1), *Restaurants or Taverns*.~~

Gaming arcades that are not operated in connection with billiard halls shall be classified as 8017(1), *Stores – retail*.

Restaurants, bars or taverns with billiard tables where the primary (over 50% of gross receipts) operations are restaurant, bar or tavern operations shall be assigned to the applicable *Food and Beverage Service Industry Group* classification.

\* \* \* \* \*

**Recommendation**

Amend Classification 7207(2), *Clubs – riding*, to provide direction as to how related operations should be classified.

PROPOSED

**CLUBS – riding – all employees – including front desk employees** **7207(2)**

This classification applies to riding clubs that provide board, feeding and care for members' horses. This classification includes horse riding instruction, horse training, cleaning of stalls and the maintenance of riding areas.

Racing stables shall be classified as 8631, *Racing Stables – all other employees*, or 8278, *Racing Stables – jockeys or harness racing drivers*.

~~Restaurant or tavern operations~~The preparation and serving of food or beverages shall be separately classified as 9079(1), *Restaurants or Taverns*. Refer to the *Food and Beverage Service Industry Group* for a complete list of classifications applicable to the preparation or serving of food or beverages.

\* \* \* \* \*

**Recommendation**

Amend Classification 2003, *Bakeries or Cracker Mfg.*, which is part of the Food Packaging and Processing Industry Group, for consistency with other proposed changes, to clarify the intended application and provide direction as to how related operations should be classified.

PROPOSED

**FOOD PACKAGING AND PROCESSING**

**BAKERIES OR CRACKER MFG.**

**2003**

This classification applies to the manufacture of baked goods, including but not limited to bread, bagels, cakes, pastries, pies, empanadas, cookies, crackers and tortillas by commercial or retail bakeries. This classification also applies to the manufacture of doughnuts (baked or fried); vegetable or corn chips; or filled pasta, including but not limited to ravioli and tortellini.

The manufacture of unfilled pasta, including but not limited to spaghetti, penne, rigatoni, rotini, linguini, and egg or rice noodles, shall be classified as 2002, *Macaroni Mfg.*

~~The manufacture of baked goods, doughnuts (baked or fried) or filled pasta, including but not limited to ravioli and tortellini by restaurants to be used or sold at restaurant locations operated by the same employer shall be classified as 9079(1), *Restaurants or Taverns*.~~

Doughnut shops that prepare and serve doughnuts and beverages or food for consumption on the premises shall be classified as ~~9079081(1), *Restaurants or Taverns - N.O.C.*~~

Retail store operations shall be separately classified.

The manufacture of baked goods, doughnuts (baked or fried) or filled pasta, including but not limited to ravioli and tortellini by restaurants, to be used or sold at restaurant locations operated by the same employer shall be assigned to the applicable *Food and Beverage Service Industry Group* classification.

\* \* \* \* \*

**Recommendation**

Amend Classification 2121, *Breweries*, which is part of the Food Packaging and Processing Industry Group, for clarity and consistency with other proposed changes and to provide direction as to how related operations should be classified.

PROPOSED

**FOOD PACKAGING AND PROCESSING**

**BREWERIES**

**2121**

This classification applies to the production of beer or similarly brewed beverages, including but not limited to ale, lager, porter, stout and malt liquor. This classification includes the production of sake, the sale of brewing by-products, including but not limited to wet or dry feed grains and brewer's yeast, and the distribution of beer or similarly brewed beverages in connection with the employer's production operations.

This classification also includes employees who provide tours of the production operations, including tours where product tasting samples are provided to customers not in connection with taproom, tasting room, retail store, ~~or~~ restaurant, bar or tavern operations.

Taprooms, tasting rooms, ~~restaurants, bars or taverns or the preparation~~ that may also prepare and ~~serve or serve~~ hot food, shall be separately classified as ~~9079(1)9084, Restaurants Bars or Taverns.~~

~~Beer brewing operations at restaurants where the beer brewed on site is primarily (over 50% of gross receipts) sold to restaurant customers for on-site consumption shall be classified as 9079(1), Restaurants or Taverns.~~

The distribution of beer or similarly brewed beverages that were not produced by the employer to retailers or commercial users shall be classified as 7392, *Beer Dealers*.

The production of wine, sparkling wine or alcoholic cider shall be classified as 2142(1), *Wineries*.

The production of distilled spirits shall be classified as 2142(2), *Distilling*.

Retail stores shall be separately classified.

Beer brewing operations where the beer brewed on-site is primarily (over 50% of gross receipts) sold at restaurant locations operated by the same employer for on-site consumption shall be assigned to the applicable *Food and Beverage Service* Industry Group classification.

\* \* \* \* \*

## Recommendation

Amend Classification 2142(2), *Distilling – N.O.C.*, which is part of the Food Packaging and Processing Industry Group, for consistency with other proposed changes and to provide direction as to how related operations should be classified.

## PROPOSED

### FOOD PACKAGING AND PROCESSING

#### DISTILLING – N.O.C.

2142(2)

This classification applies to the production of distilled spirits, including but not limited to vodka, rum, whiskey, brandy, tequila and liqueurs.

This classification includes employees who provide tours of the production operations, including tours where product tasting samples are provided to customers not in connection with tasting room, retail store, or restaurant, bar or tavern operations.

~~Tasting rooms, restaurants, taverns or the preparation and serving of hot food shall be separately classified as 9079(1), Restaurants or Taverns.~~

The production of wine, sparkling wine or alcoholic cider shall be classified as 2142(1), *Wineries*.

The production of vinegar shall be classified as 2142(3), *Vinegar Mfg.*

The production of beer or similarly brewed beverages shall be classified as 2121, *Breweries*.

Blending and bottling purchased wine or distilled spirits shall be classified as 8041, *Stores – wine or spirits – wholesale*.

Retail stores shall be separately classified.

Tasting rooms or the preparation and serving of food or beverages shall be separately classified. Refer to the *Food and Beverage Service Industry Group* for a complete list of classifications applicable to the preparation or serving of food or beverages.

\* \* \* \* \*

**Recommendation**

Amend Classification 6504, *Food Products Mfg. or Processing – N.O.C.*, which is part of the Food Packaging and Processing Industry Group, for clarity and consistency with other proposed changes, to clarify the intended application and to provide direction as to how related operations should be classified.

PROPOSED

**FOOD PACKAGING AND PROCESSING**

**FOOD PRODUCTS MFG. OR PROCESSING – N.O.C.**

**6504**

This classification applies to the manufacture of food products that are not described by another *Food Packaging and Processing Industry Group* classification, including but not limited to candy, chocolate, cocoa, condiments, sauces, seasoning, barbecue sauce, breakfast cereals, energy ~~and~~ nutrition bars, food extracts, flavored cooking oil (not oil extraction or refining), food coloring, glucose, frozen pizza, unbaked dough ~~and~~ pies, salad dressing, potato, fruit, ~~and~~ pasta ~~or~~ other salads, bean cakes, bouillon cubes, burritos and enchiladas, dumplings, pudding, edible cake decoration, food grade starch, syrup, tofu, yeast, chewing gum and fish food. This classification also includes but is not limited to coconut shredding; coffee bean cleaning, roasting or grinding; bean sorting; tea blending or packaging; flour mixing, sifting or packaging; baking powder mixing; spice milling; cake mix (dry ingredients) blending; flavored cooking oil processing; gelatin mixing, blending or grinding; honey processing; and egg dehydrating or freezing. This classification includes ~~incidental~~ the processing or packaging of food products or individual meals in containers, including but not limited to bottles, boxes, plastic containers and metal or paper cans that are not cooked to order, kept warm or served hot to the walk-in trade.

Nut processing, including but not limited to hulling, shelling, cleaning, drying, sorting, roasting, flavoring, grinding and packaging, or the manufacture of peanut butter or other nut butters shall be classified as 0096, *Nut Hulling, Shelling or Processing*.

The production or packaging of vitamins or dietary supplements shall be classified as 4831, *Vitamin or Dietary Supplement Mfg.*

The preparation and serving of hot or cold food items or the pouring and serving of alcoholic beverages for consumption by the walk-in trade on or away from the premises shall be assigned to the applicable *Food and Beverage Service Industry Group* classification.

\* \* \* \* \*



**Recommendation**

Amend Classification 2142(1), *Wineries*, which is part of the Food Packaging and Processing Industry Group, for consistency with other proposed changes and to provide direction as to how related operations should be classified.

PROPOSED

**FOOD PACKAGING AND PROCESSING**

**WINERIES**

**2142(1)**

This classification applies to the production of wine, sparkling wine or alcoholic cider.

This classification includes employees who provide tours of the production operations, including tours where product tasting samples are provided to customers not in connection with tasting room, retail store, or restaurant, bar or tavern operations.

Tasting rooms shall be separately classified as 8060, *Stores – wine, beer or spirits – retail*.

~~Restaurants, taverns or the preparation and serving of hot food shall be separately classified as 9079(1), *Restaurants or Taverns*.~~

The production of beer or similarly brewed beverages shall be classified as 2121, *Breweries*.

The production of distilled spirits shall be classified as 2142(2), *Distilling*.

The manufacture of vinegar shall be classified as 2142(3), *Vinegar Mfg*.

The manufacture of nonalcoholic juice or juice concentrates from fruit, vegetables, nuts or seeds shall be classified as 2116, *Juice or Juice Concentrate Mfg*.

Blending and bottling purchased wine or distilled spirits shall be classified as 8041, *Stores – wine or spirits – wholesale*.

Retail stores shall be separately classified.

Growing or harvesting, including field packing, of crops shall be assigned to the applicable *Farms* Industry Group classification.

The preparation and serving of food or beverages shall be separately classified. Refer to the *Food and Beverage Service* Industry Group for a complete list of classifications applicable to the preparation or serving of food or beverages.

\* \* \* \* \*

**Recommendation**

Amend Classification 9033, *Housing Authorities*, which is part of the Municipal, State or Other Public Agencies Industry Group, to remove a footnote that is no longer necessary.

PROPOSED

**MUNICIPAL, STATE OR OTHER PUBLIC AGENCIES**

**HOUSING AUTHORITIES – including resident or on-site managers**

**9033**

**When lodging is provided by the employer, the total remuneration shall include the market value of such lodging to the employee.**

This classification applies to public agencies that provide housing or housing assistance to individuals in need. The housing authority may own and operate the housing or provide financial assistance in the form of housing vouchers, which allow clients to reside in approved housing operated by other concerns. This classification includes but is not limited to resident or on-site property managers and property maintenance or repair staff.

On-site property managers are those employees whose base of operations is at any property location that they are employed to manage. The term “resident” shall refer to any employee who resides at a property managed by the employer.

Employees engaged in property inspections to determine the eligibility of properties owned and operated by separate parties for rental subsidies shall be separately classified as 9410, *Municipal, State or Other Public Agency Employees – not engaged in manual labor, or direct supervision of construction or erection work.*

~~The preparation or serving of hot foods shall be separately classified as 9079(1), *Restaurants or Taverns.*~~

Day care centers operated by housing authorities shall be separately classified as 9059, *Day Care Centers.*

New construction, alteration or demolition work shall be separately classified.

\* \* \* \* \*

**Recommendation**

Amend Classification 9011(1), *Apartment or Condominium Complex Operation – N.O.C. – not Homeowners Associations – all other employees*, which is part of the Property Management/Operation Industry Group, to provide direction as to how related operations should be classified.

PROPOSED

**PROPERTY MANAGEMENT/OPERATION**

Refer to Section IV, *Special Industry Classification Procedures*, Rule 8, *Property Management/Operation.*

**APARTMENT OR CONDOMINIUM COMPLEX OPERATION – N.O.C. – not Homeowners Associations – all other employees – including resident employees, resident Clerical Office Employees and resident Clerical Telecommuter Employees**

**9011(1)**

**When lodging is provided by the employer, the total remuneration shall include the market value of such lodging to the employee.**

This classification applies to employers engaged in the management and operation of residential apartment or condominium complexes comprised of one or more multi-unit buildings with four or more units per building. This classification includes property managers engaged in the direct supervision of employees engaged in the operation, maintenance and care of properties. Such operations include but are not limited to cleaning and maintaining lobbies and common areas, maintaining ventilation and heating systems, changing door locks and directories, interior remodeling, exterior landscape maintenance, swimming pool maintenance, security and the operation of parking facilities.

Also refer to companion Classification 8740(1), *Apartment or Condominium Complex Operation – N.O.C. – not Homeowners Associations – property management supervisors*. Classification 8740(1) applies to non-residing property management supervisors who exercise direction through maintenance or operations supervisors who directly supervise employees engaged in the operation, maintenance and care of properties. Classification 8740(1) also applies to non-residing property management supervisors who oversee apartment or condominium complexes at which all operation, maintenance and care activities are conducted by separate concerns and no payroll is assignable to 9011(1). Property managers not meeting the above conditions shall be classified as 9011(1).

Non-residing employees engaged exclusively in the rental or leasing of property to clients and who have no other duties of any kind in the service of the employer except clerical office work shall be separately classified as 8741, *Real Estate Agencies*, provided separate employees are retained to manage the property.

~~New construction, alteration or demolition work shall be separately classified.~~

~~The preparation or serving of hot foods shall be separately classified as 9079(1), *Restaurants or Taverns*.~~

The management and operation of individual apartment or condominium units (not apartment or condominium complexes), single-family residences, duplexes, triplexes and other residential properties consisting of not more than three units per building shall be classified as 9015(1), *Building Operation – N.O.C. – all other employees*.

The management and operation of properties, including but not limited to residential homes and apartment or condominium complexes, by homeowners associations shall be classified as 9066, *Homeowners Associations and Housing Cooperatives*.

~~New construction, alteration or demolition work shall be separately classified.~~

~~The preparation and serving of food or beverages shall be separately classified. Refer to the *Food and Beverage Service Industry Group* for a complete list of classifications applicable to the preparation or serving of food or beverages.~~

\* \* \* \* \*

### **Recommendation**

Amend Classification 9011(2), *Commercial and Residential Mixed-Use Building Operation – not Homeowners Associations – all other employees*, which is part of the Property Management/Operation Industry Group, to provide direction as to how related operations should be classified.

### PROPOSED

#### **PROPERTY MANAGEMENT/OPERATION**

Refer to Section IV, *Special Industry Classification Procedures*, Rule 8, *Property Management/Operation*.

**COMMERCIAL AND RESIDENTIAL MIXED-USE BUILDING OPERATION – not Homeowners Associations – all other employees – including resident employees, resident Clerical Office Employees and resident Clerical Telecommuter Employees 9011(2)**

**When lodging is provided by the employer, the total remuneration shall include the market value of such lodging to the employee.**

This classification applies to employers engaged in the management and operation of combined commercial and residential mixed-use multi-unit properties comprised of one or more mixed-use multi-unit buildings with four or more units per building. This classification includes property managers engaged in the direct supervision of employees engaged in the operation, maintenance and care of properties. Such operations include but are not limited to cleaning and maintaining lobbies and common areas, maintaining ventilation and heating systems, changing door locks and directories, interior remodeling, exterior landscape maintenance, swimming pool maintenance, security and the operation of parking facilities.

Also refer to companion Classification 8740(7), *Commercial and Residential Mixed-Use Building Operation – not Homeowners Associations – property management supervisors*. Classification 8740(7) applies to property management supervisors who exercise direction through maintenance or operations supervisors who directly supervise employees engaged in the operation, maintenance and care of commercial and residential mixed-use buildings. Classification 8740(7) also applies to non-residing property management supervisors who oversee commercial and residential mixed-use buildings at which all operation, maintenance and care activities are conducted by separate concerns and no payroll is assignable to 9011(2). Property managers not meeting the above conditions shall be classified as 9011(2).

Non-residing employees engaged exclusively in the rental or leasing of property to clients and who have no other duties of any kind in the service of the employer except clerical office work shall be separately classified as 8741, *Real Estate Agencies*, provided separate employees are retained to manage the property.

~~New construction, alteration or demolition work shall be separately classified.~~

~~The preparation or serving of hot foods shall be separately classified as 9079(1), *Restaurants or Taverns*.~~

The management and operation of only the residential portion of a commercial and residential mixed-use building where a separate concern manages the commercial portion shall be classified as 9011(1), *Apartment or Condominium Complex Operation – N.O.C. – not Homeowners Associations – all other employees*.

The management and operation of only the commercial portion of a commercial and residential mixed-use building where a separate concern manages the residential portion shall be classified as 9009, *Commercial Properties – N.O.C. – all other employees*.

The management and operation of individual apartment or condominium units (not apartment or condominium complexes), single-family residences, duplexes, triplexes and other residential properties consisting of not more than three units per building shall be classified as 9015(1), *Building Operation – N.O.C. – all other employees*.

The management and operation of properties, including but not limited to residential homes and apartment or condominium complexes by homeowners associations shall be classified as 9066, *Homeowners Associations and Housing Cooperatives*.

~~New construction, alteration or demolition work shall be separately classified.~~

~~The preparation and serving of food or beverages shall be separately classified. Refer to the *Food and Beverage Service Industry Group* for a complete list of classifications applicable to the preparation or serving of food or beverages.~~

\* \* \* \* \*

## Recommendation

Amend Classification 9007, *Apartment or Condominium Complex Operation for Seniors – age restricted – not Congregate Living Facilities or Homeowners Associations – all other employees*, which is part of the Property Management/Operation Industry Group, to provide direction as to how related operations should be classified.

## PROPOSED

### PROPERTY MANAGEMENT/OPERATION

Refer to Section IV, *Special Industry Classification Procedures*, Rule 8, *Property Management/Operation*.

### **APARTMENT OR CONDOMINIUM COMPLEX OPERATION FOR SENIORS – age restricted – not Congregate Living Facilities or Homeowners Associations – all other employees – including resident employees, resident Clerical Office Employees and resident Clerical Telecommuter Employees 9007**

**When lodging is provided by the employer, the total remuneration shall include the market value of such lodging to the employee.**

This classification applies to employers engaged in the management and operation of apartment or condominium complexes comprised of one or more multi-unit buildings with four or more units per building that, in compliance with state or federal housing laws, restrict tenancy to persons who have reached a minimum age (typically either 55 or 62 depending on the type of facility). This classification includes property managers engaged in the direct supervision of employees engaged in the operation, maintenance and care of properties. Such operations include but are not limited to cleaning and maintaining lobbies and common areas, maintaining ventilation and heating systems, changing door locks and directories, interior remodeling, exterior landscape maintenance, swimming pool maintenance, security and the operation of parking facilities.

Also refer to companion Classification 8740(6), *Apartment or Condominium Complex Operation for Seniors – age-restricted – not Congregate Living Facilities or Homeowners Associations – property management supervisors*. Classification 8740(6) applies to non-residing property management supervisors who exercise direction through maintenance or operations supervisors who directly supervise employees engaged in the operation, maintenance and care of properties. Classification 8740(6) also applies to non-residing property management supervisors who oversee such apartment or condominium complexes for seniors at which all operation, maintenance and care activities are conducted by separate concerns and no payroll is assignable to 9007. Property managers not meeting the above conditions shall be classified as 9007.

Non-residing employees engaged exclusively in the rental or leasing of property to clients and who have no other duties of any kind in the service of the employer except clerical office work shall be separately classified as 8741, *Real Estate Agencies*, provided separate employees are retained to manage the property.

~~New construction, alteration or demolition work shall be separately classified.~~

~~The preparation or serving of hot foods shall be separately classified as 9079(1), *Restaurants or Taverns*.~~

Those facilities that, for a single monthly fee, provide a service package that typically includes a living unit, one to three meals a day, in-unit housekeeping and personal laundry service shall be classified as 8851, *Congregate Living Facilities for the Elderly*.

The management and operation of individual apartment or condominium units (not apartment or condominium complexes), single-family residences, duplexes, triplexes and other residential

properties consisting of not more than three units per building shall be classified as 9015(1), *Building Operation – N.O.C. – all other employees*.

New construction, alteration or demolition work shall be separately classified.

The preparation and serving of food or beverages shall be separately classified. Refer to the *Food and Beverage Service* Industry Group for a complete list of classifications applicable to the preparation or serving of food or beverages.

\* \* \* \* \*

### **Recommendation**

Amend Classification 9015(1), *Building Operation – N.O.C. – all other employees*, which is part of the Property Management/Operation Industry Group, to provide direction as to how related operations should be classified.

## PROPOSED

### **PROPERTY MANAGEMENT/OPERATION**

Refer to Section IV, *Special Industry Classification Procedures*, Rule 8, *Property Management/Operation*.

### **BUILDING OPERATION – N.O.C. – all other employees – including resident employees 9015(1)**

**When lodging is provided by the employer, the total remuneration shall include the market value of such lodging to the employee.**

This classification applies to the management or operation of properties such as individual apartment or condominium units (not apartment or condominium complexes), single-family residences, duplexes, triplexes and other residential properties consisting of not more than three units per building, undeveloped land, recreational vehicle parks and campgrounds that are not described by another *Property Management/Operation* classification. This classification includes property managers engaged in the direct supervision of employees engaged in the operation, maintenance and care of properties. Such operations include but are not limited to cleaning and maintaining property grounds and structures, maintaining ventilation and heating systems, changing door locks and directories, interior remodeling, exterior landscape maintenance, swimming pool maintenance, restroom maintenance, security and the operation of parking facilities.

Also refer to companion Classification 8740(3), *Building Operation – N.O.C. – property management supervisors*. Classification 8740(3) applies to non-residing property management supervisors who exercise direction through maintenance or operations supervisors who directly supervise employees engaged in the operation, maintenance and care of properties. Classification 8740(3) also applies to non-residing property management supervisors who oversee properties at which all operation, maintenance and care activities are conducted by separate concerns and no payroll is assignable to 9015(1). Property managers not meeting the above conditions shall be classified as 9015(1).

Classification 9015(1) also applies to employers that perform a variety of minor property repairs for other concerns on a fee basis for which no contractor's license is required. Such repairs include but are not limited to patching walls, touch-up painting, faucet repair, door hardware repair and replacement of electrical switches.

Non-residing employees engaged exclusively in the rental or leasing of property to clients and who have no other duties of any kind in the service of the employer except clerical office work

shall be separately classified as 8741, *Real Estate Agencies*, provided separate employees are retained to manage the property.

New construction, alteration or demolition work shall be separately classified.

The preparation ~~and~~ serving of ~~hot foods or beverages~~ shall be separately classified as ~~9079(1), *Restaurants or Taverns*~~. Refer to the *Food and Beverage Service Industry Group* for a complete list of classifications applicable to the preparation or serving of food or beverages.

\* \* \* \* \*

**Recommendation**

Amend Classification 9009, *Commercial Properties – N.O.C. – all other employees*, which is part of the Property Management/Operation Industry Group, to provide direction as to how related operations should be classified.

PROPOSED

**PROPERTY MANAGEMENT/OPERATION**

Refer to Section IV, *Special Industry Classification Procedures*, Rule 8, *Property Management/Operation*.

**COMMERCIAL PROPERTIES – N.O.C. – all other employees**

**9009**

This classification applies to employers engaged in the management and operation of commercial properties, including but not limited to office buildings, office complexes, shopping malls and centers, and industrial buildings. This classification includes property managers engaged in the direct supervision of employees engaged in the operation, maintenance and care of properties. Such operations include but are not limited to cleaning and maintaining restrooms, lobbies and common areas, maintaining ventilation and heating systems, changing door locks and office directories, interior remodeling, exterior landscape maintenance, security and the operation of parking facilities.

This classification also applies to the management and operation of commercial properties as data center colocation facilities where business customers rent space for their servers and other computing hardware or rent space on the facility's servers. The installation, service or repair of computer or telephone systems or equipment in connection with the operation of data center colocation facilities on a fee basis shall be separately classified as 5193, *Computer or Telephone System or Equipment Installation, Service or Repair*.

Also refer to companion Classification 8740(2), *Commercial Properties – N.O.C. – property management supervisors*. Classification 8740(2) applies to property management supervisors who exercise direction through maintenance or operations supervisors who directly supervise employees engaged in the operation, maintenance and care of commercial properties. Classification 8740(2) also applies to non-residing property management supervisors who oversee commercial properties at which all operation, maintenance and care activities are conducted by separate concerns and no payroll is assignable to 9009. Property managers not meeting the above conditions shall be classified as 9009.

Non-residing employees engaged exclusively in the rental or leasing of property to clients and who have no other duties of any kind in the service of the employer except clerical office work shall be separately classified as 8741, *Real Estate Agencies*, provided separate employees are retained to manage the property.

The management and operation of combined commercial and residential mixed-use buildings shall be classified as 9011(2), *Commercial and Residential Mixed-Use Building Operation – not Homeowners Associations – all other employees.*

New construction, alteration or demolition work shall be separately classified.

~~The preparation and serving of hot foods or beverages shall be separately classified as 9079(1), *Restaurants or Taverns.* Refer to the *Food and Beverage Service Industry Group* for a complete list of classifications applicable to the preparation or serving of food or beverages.~~

~~The management and operation of combined commercial and residential mixed-use buildings shall be classified as 9011(2), *Commercial and Residential Mixed-Use Building Operation – not Homeowners Associations – all other employees.*~~

\* \* \* \* \*

### **Recommendation**

Amend Classification 9010, *Mobile Home Park Operation – all other employees*, which is part of the Property Management/Operation Industry Group, to provide direction as to how related operations should be classified.

## PROPOSED

### **PROPERTY MANAGEMENT/OPERATION**

Refer to Section IV, *Special Industry Classification Procedures*, Rule 8, *Property Management/Operation*.

### **MOBILE HOME PARK OPERATION – all other employees – including resident employees, resident Clerical Office Employees and resident Clerical Telecommuter Employees 9010**

**When lodging is provided by the employer, the total remuneration shall include the market value of such lodging to the employee.**

This classification applies to employers engaged in the management and operation of mobile home parks where tenants are provided with a space for the placement of the mobile home and utility services. The mobile home unit may be owned by the tenant or the mobile home may be owned by the park owner and rented or leased to the resident. Spaces are rented on a month-to-month or extended lease basis. This classification includes property managers engaged in the direct supervision of employees engaged in the operation, maintenance and care of mobile home parks. Such operations include but are not limited to cleaning and maintaining restrooms, lobbies, swimming pools and common areas, general property repairs, exterior landscape maintenance and security.

Also refer to companion Classification 8740(4), *Mobile Home Park Operation – property management supervisors*. Classification 8740(4) applies to non-residing property management supervisors who exercise direction through maintenance or operations supervisors who directly supervise employees engaged in the operation, maintenance and care of mobile home parks. Classification 8740(4) also applies to non-residing property management supervisors who oversee mobile home parks at which all operation, maintenance and care activities are conducted by separate concerns and no payroll is assignable to 9010. Mobile home park property managers not meeting the above conditions shall be classified as 9010.

Non-residing employees engaged exclusively in the rental or leasing of property to clients and who have no other duties of any kind in the service of the employer except clerical office work



shall be separately classified as 8741, *Real Estate Agencies*, provided separate employees are retained to manage the property.

The management and operation of recreational vehicle parks and campgrounds shall be classified as 9015(1), *Building Operation – N.O.C. – all other employees.*

New construction, alteration or demolition work shall be separately classified.

The preparation ~~or~~ and serving of ~~hot foods or beverages~~ shall be separately classified as ~~9079(1), *Restaurants or Taverns.*~~ Refer to the *Food and Beverage Service* Industry Group for a complete list of classifications applicable to the preparation or serving of food or beverages.

~~The management and operation of recreational vehicle parks and campgrounds shall be classified as 9015(1), *Building Operation – N.O.C. – all other employees.*~~

\* \* \* \* \*

**Recommendation**

Amend Classification 9180(2), *Shooting Clubs or Shooting Ranges*, to provide direction as to how related operations should be classified.

PROPOSED

**SHOOTING CLUBS OR SHOOTING RANGES**

**9180(2)**

This classification applies to the operation of facilities for game hunting or sport shooting. This classification also applies to indoor or outdoor shooting ranges. This classification includes gun rental and ammunition sales in connection with gun club or range operations.

The preparation ~~or~~ and serving of ~~hot foods or beverages~~ shall be separately classified as ~~9079~~9081(1), *Restaurants or Taverns – N.O.C.*

\* \* \* \* \*

**Recommendation**

Amend Classification 9092(3), *Skating Centers*, to include bar employees and provide direction as to how related operations should be classified.

PROPOSED

**SKATING CENTERS – ice or roller – including restaurant, bar or tavern employees, retail store employees and counterpersons** **9092(3)**

This classification applies to the operation of indoor or outdoor ice or roller skating centers or skate parks, including the operation of arcades, snack bars, restaurants, bars, taverns and retail stores for the sale of equipment or clothing in connection with skating centers where 50% or more of gross receipts are generated by skating operations. This classification also applies to instructors when on the payroll of skating centers or skate parks.

~~Restaurants or taverns with skating center operations where the primary (over 50% of gross receipts) operations are restaurant or tavern operations shall be classified as 9079(1), *Restaurants or Taverns*.~~

The operation of skating centers or skate parks by public agencies shall be classified as 9410/9420, *Municipal, State or Other Public Agency Employees*.

Non-profit community health and wellness clubs shall be classified as 9067(1), *Clubs – community health and wellness*.

Restaurants, bars or taverns with skating center operations where the primary (over 50% of gross receipts) operations are restaurant, bar or tavern operations shall be assigned to the applicable *Food and Beverage Service Industry Group* classification.

\* \* \* \* \*

**Recommendation**

Amend Classification 8017(1), *Stores – retail – N.O.C.*, which is part of the Stores Industry Group, to remove the reference that preparation or serving of hot foods shall be separately classified as the direction is already included in the Special Industry Classification Procedures for Stores.

PROPOSED

**STORES**

Refer to Section IV, *Special Industry Classification Procedures*, Rule 5, *Stores*.

**STORES – retail – N.O.C.**

**8017(1)**

This classification applies to retail stores engaged in the sale of items not more specifically described by another store classification, including but not limited to appliances, artwork, baked goods, cellular telephones, cosmetics or beauty supplies, prescription and non-prescription pharmaceuticals, party supplies, craft supplies, disposable medical supplies, mattresses and box springs, domestic pets, firearms, games or gaming devices, home electronics, musical instruments, sporting goods, toys, vitamins or food supplements, cut Christmas trees and wheelchairs.

This classification also applies to self-serve laundromats, dry cleaning or laundry drop-off and pick up facilities (no cleaning on the premises), mail service stores and gaming arcades.

~~The preparation or serving of hot foods shall be separately classified as 9079(1), *Restaurants or Taverns*.~~

\* \* \* \* \*

**Recommendation**

Amend Classification 9155, *Theaters – motion picture – all employees other than employees exclusively engaged in restaurant or tavern operations*, to include bar operations and provide direction as to how related operations should be classified.

PROPOSED

**THEATERS – motion picture – all employees other than employees exclusively engaged in restaurant, bar or tavern operations 9155**

This classification applies to all employees engaged in the operation of “walk-in” or “drive-in” motion picture theaters, including but not limited to ushers, motion picture projection and sound equipment operators, box office and snack bar cashiers, security staff and parking lot attendants.

The operation of a concession stand or snack bar by separate concerns shall be classified as ~~90799081~~(2), *Concessionaires*.

Theatrical performers, directors or musicians engaged in dance, opera, dramatic, comedic, circus or other theatrical presentations before a live audience shall be classified as 9156, *Theaters – dance, opera and theater companies*.

Orchestras, touring bands, casual or steady engagement music groups or event disc jockeys engaged in the provision of musical entertainment before a live audience shall be classified as 9151, *Theaters – musical entertainment*.

Employees other than performers, directors or musicians engaged in the operation of live performance theaters shall be classified as 9154, *Theaters – not motion picture*.

The payroll of employees engaged exclusively in restaurant, bar or tavern operations shall be separately classified as ~~9079(1), Restaurants or Taverns~~. Refer to the Food and Beverage Service Industry Group for a complete list of classifications applicable to the preparation or serving of food or beverages.

\* \* \* \* \*

**Recommendation**

Amend Classification 9016(1), *Amusement or Recreational Facilities – N.O.C. – all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores*, for consistency with other proposed changes.

PROPOSED

**AMUSEMENT OR RECREATIONAL FACILITIES – N.O.C. – all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores 9016(1)**

This classification applies to the operation of amusement or recreational facilities, including but not limited to amusement parks, water parks, miniature golf courses, batting cages, bumper car facilities, archery ranges, water excursions/tours, laser tag, airsoft or paintball facilities, Nordic (cross-country) ski facilities and zoos, including veterinarians employed by zoos.

This classification also applies to the operation of golf driving ranges that are not operated by golf courses or country clubs.

This classification also applies to automobile or horse racetrack operations by employers that are not public agencies.

This classification also applies to the operation of athletic or sports venues, including ballparks and stadiums, during non-sporting activities, including but not limited to concerts and exhibitions.

The preparation and serving of food or beverages shall be separately classified as Classification 9081(1), *Restaurants – N.O.C.*

Boat marinas or boat rental facilities shall be classified as 9016(4), *Boat Marina and Boat Rental Operation*.

Golf courses, ~~or~~ country clubs or yacht clubs shall be classified as 9060, *Clubs – country, ~~or~~ golf or yacht*.

Traveling carnivals shall be classified as 9185, *Carnivals*.

The operation of events, including but not limited to farmers' markets, flea markets, street fairs, swap meets, art or antique festivals, trade shows (public or private), fun runs, foot races, cycling events, marathons, triathlons and athletic charity events shall be classified as 9095, *Event Market, Festival or Trade Show Operation*.

The operation of racetracks by public agencies shall be classified as 9410/9420, *Municipal, State or Other Public Agency Employees*.

Bowling centers shall be classified as 9092(1), *Bowling Centers*.

Billiard halls shall be classified as 9092(2), *Billiard Halls*.

Skating rinks or skate parks shall be classified as 9092(3), *Skating Centers*.

Also refer to companion Classification 9180(1), *Amusement or Recreational Facilities – N.O.C. – operation or maintenance of amusement devices*.

If an employee who performs duties described by Classification 9016(1) also performs duties described by Classification 9180(1), the payroll of that employee may be divided between Classifications 9016(1) and 9180(1), provided the employer maintains accurate records supported by time cards or time book entries that show such division. See Section V, Rule 3, *Division of Single Employee's Payroll*.

~~Restaurants, r~~ Retail stores or hotels shall be separately classified.

\* \* \* \* \*

### **Recommendation**

Amend Classification 9016(2), *Dog Shows*, for consistency with other proposed changes.

### PROPOSED

**DOG SHOWS – all employees other than kennel employees and employees engaged in the operation or maintenance of amusement devices, restaurants or retail stores** **9016(2)**

This classification applies to all employees of dog shows other than kennel employees and employees engaged in the operation or maintenance of amusement devices, restaurants or retail stores.

Kennel employees shall be separately classified as 8831(3), *Kennels*.

~~The operation or maintenance of amusement devices, restaurants and retail stores~~ The preparation and serving of food or beverages shall be separately classified as Classification 9081(1), *Restaurants – N.O.C.*

The operation or maintenance of amusement devices or retail stores shall be separately classified.

\* \* \* \* \*

**Recommendation**

Amend Classification 9016(3), *Horse Shows or Rodeos – all employees other than stable employees and employees engaged in the operation or maintenance of amusement devices, restaurants or retail stores*, for consistency with other proposed changes.

PROPOSED

**HORSE SHOWS OR RODEOS – all employees other than stable employees and employees engaged in the operation or maintenance of amusement devices, restaurants or retail stores** **9016(3)**

This classification applies to all employees of horse shows or rodeos other than stable employees and employees engaged in the operation or maintenance of amusement devices, restaurants or retail stores.

~~Also refer to companion Classification 7207(3), *Horse Shows or Rodeos – stable employees*~~ The preparation and serving of food or beverages shall be separately classified as 9081(1), *Restaurants – N.O.C.*

Horse dealers or auctions shall be classified as 8286, *Livestock Dealers or Auction Yards*.

The operation or maintenance of amusement devices, ~~restaurants and~~ or retail stores shall be separately classified.

Also refer to companion Classification 7207(3), *Horse Shows or Rodeos – stable employees*.

\* \* \* \* \*

**Recommendation**

Amend Classification 9016(4), *Boat Marina and Boat Rental Operation*, for consistency with other proposed changes.

PROPOSED

**BOAT MARINA AND BOAT RENTAL OPERATION** **9016(4)**

This classification applies to boat marina or boat rental operators, including but not limited to the maintenance of marina facilities, maintenance or repair of rental boats, fuel sales, and the rental of boat slips or dry storage space.

Fee-based instruction or guided expeditions shall be separately classified as 9180(1), *Amusement or Recreational Facilities – N.O.C. – operation or maintenance of amusement devices*.

The preparation and serving of food or beverages shall be separately classified as Classification Restaurants – N.O.C.

Boat dealers shall be classified as 8057, *Boat Dealers*.

Boat repair facilities shall be classified as 6834, *Boat Building or Repairing*.

Yacht clubs shall be classified as ~~9064~~9060, *Clubs – N.O.C. county, golf or yacht*.

~~Restaurants, r~~Retail stores or hotels shall be separately classified.

\* \* \* \* \*

**Recommendation**

Amend Classification 9180(1), *Amusement or Recreational Facilities – N.O.C. – operation or maintenance of amusement devices*, to provide direction as to how related operations should be classified and for consistency with other proposed changes.

PROPOSED

**AMUSEMENT OR RECREATIONAL FACILITIES – N.O.C. – operation or maintenance of amusement devices – including ticket collectors 9180(1)**

This classification applies to the operation or maintenance of amusement devices at recreational facilities, including but not limited to amusement parks, zoos, water parks, miniature golf courses, batting cages, bumper car facilities, archery ranges, water excursions/tours and laser tag, airsoft or paintball facilities.

This classification also applies to guided tours for water-based activities or water-based athletic or fitness instructional programs at locations other than swimming pools, including but not limited to surfing, scuba, kayaking, paddle boarding or kite surfing on lakes, bays, rivers or oceans.

This classification also applies to guided wilderness expeditions; motorsports operations; or ski instructors, ski patrol personnel or employees engaged in ski trail grooming at ski resort locations that exclusively provide Nordic (cross-country) skiing activities. This classification also applies to the detonation of fireworks for pyrotechnic displays.

The preparation and serving of food or beverages shall be separately classified as Classification 9081(1), Restaurants – N.O.C.

Traveling carnivals shall be classified as 9185, *Carnivals*.

Employers that operate boat marinas or boat rental facilities shall be classified as 9016(4), *Boat Marina and Boat Rental Operation*.

Bowling centers shall be classified as 9092(1), *Bowling Centers*.

Billiard halls shall be classified as 9092(2), *Billiard Halls*.

Skating rinks or skate parks shall be classified as 9092(3), *Skating Centers*.

The operation of Alpine (downhill) ski resorts, including the operation of Nordic (cross-country) ski trails at Alpine ski resort locations, shall be classified as 9184, *Ski Resorts – Alpine*.

Also refer to companion Classification 9016(1), *Amusement or Recreational Facilities – N.O.C. – all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores.*

If an employee who performs duties described by Classification 9180(1) also performs duties described by Classification 9016(1), the payroll of that employee may be divided between Classifications 9016(1) and 9180(1), provided the employer maintains accurate records supported by time cards or time book entries that show such division. See Section V, Rule 3, *Division of Single Employee's Payroll.*

~~Restaurants, r~~ Retail stores or hotels shall be separately classified.

\* \* \* \* \*

**Recommendation**

Amend Classification 9182, *Athletic Teams or Athletic Facilities – all employees other than players, umpires, referees and game officials*, to provide direction as to how related operations should be classified and for consistency with other proposed changes.

PROPOSED

**ATHLETIC TEAMS OR ATHLETIC FACILITIES – all employees other than players, umpires, referees and game officials 9182**

This classification applies to employees of athletic teams or parks who are engaged in the care of teams or the care, operation and maintenance of grounds and facilities, including but not limited to coaches and assistant coaches, non-playing managers, trainers, equipment managers, bat and ball retrievers, mascots, dancers, locker room attendants, public address announcers, scorekeepers, timekeepers, ushers, ticket sellers or collectors, parking lot attendants, security staff, and facility and grounds maintenance employees. This classification also applies to employees of youth or recreational athletic teams or facilities.

Radio or television broadcasting shall be separately classified as 7610, *Radio, Television or Commercial Broadcasting Stations.*

The preparation and serving of food or beverages shall be separately classified as Classification 9081(1), *Restaurants – N.O.C.*

The operation of a concession stand or snack bar by separate concerns shall be classified as 9081(2), *Concessionaires.*

Athletic scouts shall be classified as 8742, *Salespersons – Outside*, subject to the Standard Exceptions rule. See Section III, Rule 4, *Standard Exceptions.*

The operation of athletic facilities during non-sporting events, including but not limited to concerts and exhibitions shall be classified as 9016(1), *Amusement or Recreational Facilities – N.O.C. – all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores.*

Players, playing managers, and umpires, referees and game officials who monitor play, shall be classified as 9181, *Athletic Teams or Athletic Facilities – players, umpires, referees and game officials.*

~~Radio or television broadcasting shall be separately classified as 7610, *Radio, Television or Commercial Broadcasting Stations*.~~

Also refer to companion Classification 9181, *Athletic Teams or Athletic Facilities – players, umpires, referees and game officials*.

If an employee who performs duties described by Classification 9182 also performs duties described by Classification 9181, the payroll of that employee may be divided between Classifications 9181 and 9182, provided the employer maintains accurate records supported by time cards or time book entries that show such division. See Part 3, Section V, Rule 3, *Division of Single Employee's Payroll*.

~~Restaurants, retail stores and/or vendors shall be separately classified.~~

\* \* \* \* \*

### Recommendation

Amend Classification 9060, *Clubs – country or golf*, to include bar employees and for consistency with other proposed changes.

### PROPOSED

#### **CLUBS – country, or golf or yacht – including front desk employees and restaurant, bar or tavern employees** **9060**

This classification applies to the operation of private golf or country clubs, ~~or public golf courses or yacht clubs, including restaurant, bar, tavern or event facilities at the club location and additional fitness or recreational facilities that may be operated in connection with the club.~~ This classification includes the maintenance of golf courses or equipment, including golf carts; golf instruction; tournament operations; all course, club facility or golf cart maintenance; and the operation of pro shops or driving ranges, ~~or restaurant, tavern or event facilities at the club location.~~ This classification also includes additional fitness or recreational facilities that may be operated in connection with the golf course.

Hotel operations shall be separately classified as 9050, *Hotels, Motels or Short-Term Residential Housing – all employees other than employees engaged exclusively in food or beverage operations*.

Driving ranges that are not operated by golf courses or country clubs shall be classified as 9016(1), *Amusement or Recreational Facilities – N.O.C. – all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores*.

Boat marina or boat rental facilities that are not operated by a yacht club shall be classified as 9016(4), *Boat Marina and Boat Rental Operation*.

Tennis or racquetball clubs shall be classified as 9053(5), *Clubs – racquet sports*.

Public or private swimming pools shall be classified as 9053(3), *Swimming Pools or Swimming Clubs*.

Clubs that are not more specifically described by any other classification shall be classified as 9061, *Clubs – N.O.C.*

\* \* \* \* \*



**Recommendation**

Amend Classification 9069, *Clubs – gaming*, to include bar employees for consistency with other proposed changes.

PROPOSED

**CLUBS – gaming – including front desk employees and restaurant, bar or tavern employees 9069**

This classification applies to the operation of casinos or gaming houses, including but not limited to card rooms, off-track betting facilities and bingo parlors.

This classification also applies to the provision of gaming tables, equipment, dealers or operators for private events.

This classification includes the provision of pari-mutuel wagering operations to horse racing tracks or other horse race betting venues on a contract basis.

Hotel operations shall be separately classified as 9050, *Hotels, Motels or Short-Term Residential Housing – all employees other than employees engaged exclusively in food or beverage operations.*

\* \* \* \* \*

**Recommendation**

Amend Classification 9061, *Clubs – N.O.C.*, to include bar employees for consistency with other proposed changes.

PROPOSED

**CLUBS – N.O.C. – all employees – including front desk employees and restaurant, bar or tavern employees 9061**

This classification applies to the operation of membership clubs that are not specifically described by another classification, including but not limited to ~~business social clubs, cultural clubs, professional clubs, community service clubs, fraternal orders, yacht clubs, faculty clubs, professional clubs and employer sponsored clubs.~~ This classification also applies to the operation of retreat facilities that provide meeting space, food and lodging to participants or fraternity or sorority houses and includes overnight lodging provided to members in connection with club operations.

Overnight camps or retreat facilities shall be classified as 9048(1), *Camps or Retreat Facilities*

Non-profit community health and wellness clubs shall be classified as 9067(1), *Clubs – community health and wellness.*

Boys and girls clubs shall be classified as 9067(2), *Clubs – boys and girls.*

Country clubs, ~~and~~ golf clubs or yacht clubs shall be classified as 9060, *Clubs – country, ~~or~~ golf or yacht.*

Casinos ~~and~~ gaming clubs shall be classified as 9069, *Clubs – gaming.*

Equestrian clubs shall be classified as 7207(2), *Clubs – riding*.

Shooting clubs shall be classified as 9180(2), *Shooting Clubs or Shooting Ranges*.

Swimming clubs shall be classified as 9053(3), *Swimming Pools or Swimming Clubs*.

Tennis and racquetball clubs shall be classified as 9053(5), *Clubs – racquet sports*.

\* \* \* \* \*

**Recommendation**

Amend Classification 9053(5), *Clubs – racquet sports*, to include bar or tavern employees for consistency with other proposed changes.

PROPOSED

**CLUBS – racquet sports – including restaurant, bar or tavern employees, retail store employees and receptionists** **9053(5)**

This classification applies to racquet clubs that provide membership and access to court facilities for playing racquet sports, including but not limited to tennis, racquetball, badminton and squash, as a primary benefit of membership. This classification includes additional fitness and recreational facilities that may be operated in connection with the racquet court facilities. This classification includes coaching teams and instructing, supervising and operating competitive leagues or events.

This classification also applies to the operation of clubs or facilities for handball, pickleball, table tennis or similar racquet or paddle sports.

~~Golf or Country clubs, golf clubs or yacht clubs~~ shall be classified as 9060, *Clubs – country, or golf or yacht*.

Public or private swimming pools shall be classified as 9053(3), *Swimming Pools or Swimming Clubs*.

Non-profit community health and wellness clubs shall be classified as 9067(1), *Clubs – community health and wellness*.

Health clubs or gyms engaged in operating facilities that provide space and exercise equipment, including but not limited to cardiovascular equipment, weight machines and free weights available for at-will use by clients for the majority of operating hours, including tennis, racquetball, handball or squash operations provided in connection therewith, shall be classified as 9053(2), *Health Clubs or Gyms*.

The operation of fitness studios or fitness training programs primarily offering scheduled fitness classes where space and exercise equipment is not available for use by clients at-will during the majority of operating hours shall be classified as 8870, *Fitness Instruction Programs or Studios*.

\* \* \* \* \*

**Recommendation**

Amend Classification 9053(2), *Health Clubs or Gyms*, to include bar or tavern employees for consistency with other proposed changes.

PROPOSED

**HEALTH CLUBS OR GYMS – including restaurant, bar or tavern employees, retail store employees and receptionists** **9053(2)**

This classification applies to health clubs or gyms operating facilities that provide space and exercise equipment, including but not limited to cardiovascular equipment, weight machines and free weights available for use by clients on an at-will basis for the majority of operating hours. This classification includes facilities and services provided in connection with health club or gym operations, including but not limited to swimming pools, tennis courts, child care and spa, massage and personal appearance services. This classification includes fitness class instruction when provided in connection with health club or gym operations. This classification also applies to facilities that provide climbing walls or trampolines available for use by clients on an at-will basis or for fitness programs or instruction.

The operation of fitness studios or fitness training programs primarily offering scheduled fitness classes where space and exercise equipment is not available for use by clients at-will during the majority of operating hours shall be classified as 8870, *Fitness Instruction Programs or Studios*.

The operation of spa or bath facilities that include saunas, steam baths, hydrotherapy baths or soaking tubs, including massage or personal appearance services that are not provided in connection with a health club or gym, shall be classified as 9054, *Spas or Baths*.

Hair cutting, massage services, nail salons and other personal appearance services that are not performed in connection with health clubs, gyms, spas or baths shall be classified as 9586, *Barber Shops, Hair Styling Salons and Personal Appearance Services*.

Public or private swimming pools shall be classified as 9053(3), *Swimming Pools or Swimming Clubs*.

Tennis or racquetball clubs shall be classified as 9053(5), *Clubs – racquet sports*.

Non-profit community health and wellness clubs shall be classified as 9067(1), *Clubs – community health and wellness*.

\* \* \* \* \*

**Recommendation**

Amend Classification 9053(3), *Swimming Pools or Swimming Clubs* to include bar or tavern employees for consistency with other proposed changes.

PROPOSED

**SWIMMING POOLS OR SWIMMING CLUBS – including restaurant, bar or tavern employees, retail store employees and receptionists** **9053(3)**

This classification applies to the operation of public swimming pools. This classification also applies to swim clubs that operate pool facilities. This classification also applies to swimming, diving, scuba diving and water safety instruction performed in swimming pools.

Competitive swim clubs or teams that do not operate pool facilities shall be classified as 9182, *Athletic Teams or Athletic Facilities – all employees other than players, umpires, referees and game officials.*

Health clubs or gyms operating facilities that provide space and exercise equipment, including but not limited to cardiovascular equipment, weight machines and free weights available for at-will use by clients for the majority of operating hours, including swimming pool operations provided in connection therewith, shall be classified as 9053(2), *Health Clubs or Gyms.*

Tennis or racquetball clubs, including swimming pool operations provided in connection therewith, shall be classified as 9053(5), *Clubs – racquet sports.*

Non-profit community health and wellness clubs shall be classified as 9067(1), *Clubs – community health and wellness.*

The operation of water parks shall be classified as 9016(1)/9180(1), *Amusement or Recreational Facilities – N.O.C.*

Water-based athletic or fitness instructional programs at locations other than swimming pools, including but not limited to surfing, scuba, kayaking, paddle boarding, and kite surfing lessons and tours on lakes, bays, rivers or oceans, shall be classified as 9180(1), *Amusement or Recreational Facilities – N.O.C. – operation or maintenance of amusement devices.*

\* \* \* \* \*

**Recommendation**

Amend Classification 8838, *Museums*, to include the operation of bars or taverns for consistency with other proposed changes.

PROPOSED

**MUSEUMS – all employees other than those engaged in the operation of retail stores, restaurants or retail stores, bars or taverns – including Clerical Office Employees and Clerical Telecommuter Employees** 8838

This classification applies to employers that display art objects, natural science exhibits, antiquities or objects of historical or cultural significance for viewing by the general public. This classification also applies to botanical gardens, planetariums or public aquariums and includes veterinarians employed by public aquariums.

~~Retail store or restaurant operations shall be separately classified.~~

Art galleries that display art objects for sale to the walk-in trade shall be classified as 8017(1), *Stores – retail.*

Zoos shall be classified as 9180(1), *Amusement or Recreational Facilities – N.O.C. – operation or maintenance of amusement devices*, and 9016(1), *Amusement or Recreational Facilities – N.O.C. – all employees other than those engaged in the operation or maintenance of amusement devices, restaurants or retail stores.*

Retail store or restaurant, bar or tavern operations shall be separately classified. Refer to the Food and Beverage Service Industry Group for a complete list of classifications applicable to the preparation or serving of food or beverages.

\* \* \* \* \*

**Recommendation**

Amend Classification 9066, *Homeowners Associations and Housing Cooperatives*, for clarity and consistency with other proposed changes.

PROPOSED

**HOMEOWNERS ASSOCIATIONS AND HOUSING COOPERATIVES – N.O.C.**

**9066**

This classification applies to homeowners associations (HOAs) or housing cooperatives (Co-ops) operating or maintaining the premises owned by HOA or Co-op members. Such operations include but are not limited to the maintenance of common grounds; operation of swimming pools, tennis courts, saunas, weight rooms ~~and/or~~ recreational clubhouse facilities; functions performed by security personnel; and front desk operations such as receptionists and lobby attendants.

~~Property management firms, including firms that manage HOA or Co-op properties, shall be assigned to the applicable *Property Management/Operation* Industry Group classification. The operation or management of hotels, motels or short-term residential housing where 25% or more of the housing units are rented for 30 consecutive days or less, including but not limited to vacation rentals and timeshare properties shall be classified as 9050, *Hotels, Motels or Short-Term Residential Housing – all employees other than employees engaged exclusively in food or beverage operations*.~~

Golf courses, stables, ~~restaurants~~, outpatient clinics, boat marinas, day nurseries, water works, fire departments or new construction, alteration or demolition work shall be separately classified.

The preparation and serving of food shall be separately classified. Refer to the *Food and Beverage Service* Industry Group for a complete list of classifications applicable to the preparation or serving of food or beverages.

~~The operation or management of hotels, motels or short-term residential housing where 25% or more of the housing units are rented for 30 consecutive days or less, including but not limited to vacation rentals and timeshare properties shall be classified as 9050, *Hotels, Motels or Short-Term Residential Housing*. Property management firms, including firms that manage HOA or Co-op properties, shall be assigned to the applicable *Property Management/Operation* Industry Group classification.~~

\* \* \* \* \*

**Recommendation**

Amend Classification 9184, *Ski Resorts*, for consistency with other proposed changes.

PROPOSED

**SKI RESORTS – Alpine – including the operation of Nordic ski trails at Alpine ski resort locations**

**9184**

This classification applies to all operations of Alpine (downhill) ski resorts, including but not limited to trail maintenance, snow grooming, snowmaking, ticket sales, general building maintenance, parking lot attendants, security staff, ski school operations and the operation of gondolas, rope tows, chair or T-bar lifts. This classification also applies to the operation or maintenance of Nordic (cross-country) ski trails at Alpine ski resort locations.

Ski resorts that exclusively provide Nordic (cross-country) skiing shall be classified as 9016(1)/9180(1), *Amusement or Recreational Facilities – N.O.C.*

Ski equipment rental shops engaged in the rental or sale of skis, boots, poles, gloves, goggles or related accessories shall be separately classified as 8017(1), *Stores – retail*.

Retail store, hotel or restaurants, retail stores or hotels bar or tavern operations shall be separately classified. Refer to the *Food and Beverage Service Industry Group* for a complete list of classifications applicable to the preparation or serving of food or beverages.

\* \* \* \* \*

**Recommendation**

Amend Classification 9054, *Spas or Baths*, to include bar or tavern employees for consistency with other proposed changes.

PROPOSED

**SPAS OR BATHS – including restaurant, bar or tavern employees, retail store employees and receptionists 9054**

This classification applies to the operation of spa or bath facilities, including but not limited to saunas, steam baths, hydrotherapy baths, cryotherapy, natural springs, mud baths and soaking tubs. This classification also applies to massage or personal appearance services provided in connection with spa or bath operations.

Health clubs or gyms operating facilities that provide space and exercise equipment, including but not limited to cardiovascular equipment, weight machines and free weights available for at-will use by clients for the majority of operating hours shall be classified as 9053(2), *Health Clubs or Gyms*.

The operation of fitness studios or fitness training programs primarily offering scheduled fitness classes where space and exercise equipment is not available for use by clients at-will during the majority of operating hours shall be classified as 8870, *Fitness Instruction Programs or Studios*.

Hair cutting, massage services, nail salons and other personal appearance services that are not performed in connection with spas or baths shall be classified as 9586, *Barber Shops, Hair Styling Salons and Personal Appearance Services*.

Public or private swimming pools shall be classified as 9053(3), *Swimming Pools or Swimming Clubs*.

Tennis or racquetball clubs shall be classified as 9053(5), *Clubs – racquet sports*.

Non-profit community health and wellness clubs shall be classified as 9067(1), *Clubs – community health and wellness*.

\* \* \* \* \*

Amend Section VIII, *Abbreviated Classifications – Numeric Listing*, for consistency with other proposed changes.

PROPOSED

**Abbreviated Classifications – Numeric Listing**

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- 
- 9050            Hotels/Motels/Short-Term Housing—other
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- 9058            Hotels/Motels/Short-Term Housing—food/beverage
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- 9080            Restaurants—full service
- ~~9079~~9081(1) Restaurants/Taverns—N.O.C.
- )
- 9081(2)        Concessionaires
- 9082            Caterers
- 9083            Restaurants—fast food/casual
- 9084            Bars/Taverns
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