STATE OF NEW YORK

5388

2025-2026 Regular Sessions

IN ASSEMBLY

February 13, 2025

Introduced by M. of A. VANEL -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to prohibiting deceptive gratuity solicitations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new section 349-h to read as follows:

§ 349-h. Deceptive gratuity solicitations. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Point-of-sale terminal" shall mean an electronic device through which a consumer may initiate payment transactions.

(b) "Establishment" shall mean a place of business that is open to the public in the state of New York.

(c) "Automatic gratuity" shall mean a gratuity that is charged to the consumer's bill automatically and without further action from the consumer, regardless of the consumers ability to reduce or increase such gratuity.

2. Deceptive gratuities. It shall be unlawful to solicit a gratuity in a deceptive manner. A gratuity is deemed to have been solicited in a deceptive manner where:

(a) a suggested percentage or an automatic gratuity is provided and such dollar amount that is communicated to the consumer that is represented by such percentage or automatic gratuity is inaccurate;

(b) a suggested percentage or an automatic gratuity is provided and such percentage is calculated from the total amount owed including tax or any other fees that the establishment may impose;

(c) other than situations where an automatic gratuity is provided, the ability to add no gratuity is not presented as a prominent and easily selectable individual option;

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(d) a suggested percentage is provided and lacks the corresponding dollar amount, or a suggested dollar amount is provided and lacks the corresponding percentage, without such corresponding dollar amount or percentage being conspicuously disclosed in close proximity to its corresponding suggested percentage or dollar amount; or

(e) the solicitation is presented or functions in a manner proscribed by rules and regulations promulgated by the attorney general.

3. Manufacturer's duties and liability. A manufacturer, software provider, or any entity responsible for developing or providing software for point-of-sale terminals:

(a) shall ensure that all terminals sold after the effective date of this section do not include or have implemented any design or function, or any ability for an establishment to add a design or function, within a point-of-sale terminal that violates this section; and

(b) which has the ability to furnish software updates to existing point-of-sale terminals shall update such terminals to exclude any prohibited designs or functions that violate this section by the effective date of this section or, at such time when the attorney general proscribes additional deceptive designs or functions, that such terminals exclude any such prohibited designs or functions within a reasonable period of time as prescribed by the attorney general.

4. Establishment's duties and liability. An establishment:

(a) shall not solicit a gratuity in a deceptive manner in violation of subdivision two of this section;

(b) that has a non-compliant point-of-sale terminal in use shall bring such terminal into compliance with this section by the effective date of this section. Where such terminal cannot be brought into compliance with this section because the point-of-sale terminal does not provide the options to become compliant as provided by this section, the establishment shall not be liable for failing to bring the point-of-sale terminal into compliance. Where the manufacturer, software provider, or entity responsible for the point-of-sale system updates the system to provide the options to bring the point-of-sale terminal into compliance, the establishment shall bring the terminal into compliance by the effective date of this section. Where the updates to the point-of-sale terminal are provided within sixty days of the effective date of this section, the establishment shall have an additional sixty days to bring the point-of-sale terminal into compliance. At such time when the attorney general proscribes additional deceptive designs or functions, an establishment shall exclude any such prohibited designs or functions within their terminal within a reasonable period of time as prescribed by the attorney general; and

(c) that manufactures or designs its own point-of-sale terminal shall have the same responsibilities and liability as a manufacturer as provided by subdivision three of this section.

§ 2. This act shall take effect one year after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.