STATE OF NEW YORK

1547

2021-2022 Regular Sessions

IN SENATE

January 13, 2021

Introduced by Sens. KAVANAGH, KAMINSKY -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to third-party food delivery service fees

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 396-rrr to read as follows:

§ 396-rrr. Third-party food delivery service fees. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Covered establishment" shall mean any food service establishment that offers, either directly or through a third-party food delivery service, in a single commercial transaction over the phone or internet, the sale and same-day delivery of food and beverages to customers from one or more retail locations within the state.

(b) "Food service establishment" shall mean any building, vehicle, or structure, or any room or division in a building, vehicle, or structure where food is prepared, served or sold for immediate consumption on or in the vicinity of the premises, called for or taken out by customers, or prepared prior to being delivered to another location for consumption.

(c) "Online order" means an order placed by a customer through a platform provided by a third-party food delivery service.

(d) "Purchase price" means the menu price of an online order, exclusive of taxes, gratuities, and any other fees that may make up the total cost to the customer of an online order.

(e) "Third-party food delivery service" means any website, mobile application, or other internet service that offers or arranges for the sale and same-day delivery or same-day pickup of food and beverages

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

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prepared by no fewer than twenty separately owned and operated food service establishments.

2. Per-order fees. It shall be unlawful for third-party food delivery services to impose on a covered establishment a fee per online order for the use of their services that totals more than ten percent of the purchase price of such online order.

3. Penalties. Any person that violates subdivision two of this section or any rules or regulations promulgated pursuant to this section shall be subject to a civil penalty of not less than one thousand dollars per violation. Violations shall accrue on a daily basis for each day and for each covered establishment charged a fee in violation of this section or any rule promulgated pursuant to this section.

4. Enforcement. The secretary of state may seek any relief available under article sixty-three of the civil practice law and rules in a proceeding against any person alleged to be in violation of this section. In addition, the attorney general may bring an action on behalf of the people of the state of New York to enjoin acts in violation of this section and to recover any civil penalties unless civil penalties have been previously recovered in such administrative proceedings.

5. Rules and regulations. The division of consumer protection, in conjunction with the secretary of state, shall promulgate any rules and regulations necessary to implement this section.

§ 2. This act shall take effect immediately.