STATE OF NEW YORK

9598

IN ASSEMBLY

March 26, 2024

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

AN ACT to amend the general business law, in relation to prohibiting the practice of surge pricing by chain restaurants

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 391-w to read as follows:

§ 391-w. Surge pricing prohibited. 1. For purposes of this section, the following terms shall have the following meanings:

(a) "covered establishment" means a food or beverage service establishment that is part of a chain with fifteen or more locations nationally doing business under the same name and offering for sale substantially the same menu items, or a beverage service establishment or similar establishment that is not part of such a chain that voluntarily registers with the United States Food and Drug Administration to be subject to the federal requirements for nutrition labeling of standard menu items pursuant to 21 CFR 101.11(d), or any successor regulation;

(b) "dynamic pricing" means the practice of both increasing and decreasing prices, based on market conditions, the season and supply changes; and

(c) "surge pricing" means the practice of raising prices when demand for a service is strong and lowering prices when demand for goods or services is weak in the absence of changes in market conditions, the season and supply.

2. (a) No covered establishment shall engage in the practice of surge pricing.

(b) The provisions of this subdivision shall not prohibit the implementation of dynamic pricing during certain periods including but not limited to early-bird specials, happy hours and seasonal specials, or for packages and catering services.

(c) The imposition of an additional charge for patrons using third-party apps to order from covered establishments shall not be considered to be a violation of this section.

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

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3. A violation of this section shall be punishable by a civil penalty of two hundred fifty dollars for each such occurrence.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.