STATE OF NEW YORK

9365

IN SENATE

May 14, 2024

Introduced by Sen. FERNANDEZ -- 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 prohibiting third-party restaurant reservation services from arranging unauthorized restaurant reservations with food service establishments

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

Section 1. Short title. This act shall be known and may be cited as the "restaurant reservation anti-piracy act".

§ 2. The general business law is amended by adding a new section 391-w to read as follows:

§ 391-w. Unauthorized restaurant reservations. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Food service establishment" shall have the same meaning as that term is defined in section three hundred ninety-one-v of this article.

(b) "Third-party restaurant reservation service" means any website, mobile application or other internet service that: (i) offers or arranges for reserving on-premises service for a customer at a food service establishment; and (ii) that is owned and operated by a person other than the person who owns such food service establishment.

2. A third-party restaurant reservation service shall not list, advertise, promote, or sell reservations for a food service establishment through the website, mobile application or other platform of such third-party restaurant reservation service without a written agreement between such third-party restaurant reservation service and such food service establishment to include reservations at the food service establishment on such website, mobile application or other platform.

3. An agreement executed in accordance with this section shall not include a provision, clause, or covenant that requires a food service establishment to indemnify a third-party restaurant reservation service, any independent contractor acting on behalf of the third-party restaurant reservation service, or any registered agent of the third-party restaurant reservation service, for any damages or harm by an act or

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

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omission initiated by the third-party restaurant reservation service. To the extent an agreement executed in accordance with this section contains such a provision, such provision shall be deemed void and unenforceable.

4. Any person who violates, or causes another person to violate, a provision of this section or any rule promulgated pursuant thereto, shall be subject to a civil penalty that shall not exceed one thousand dollars for each violation. Violations by third-party restaurant reservation services under this section shall accrue on a daily basis for each day and for each food service establishment with respect to which a violation of this section or any rule promulgated pursuant to this section was committed. A proceeding to recover any civil penalty or restitution authorized pursuant to this section may be brought within any agency of the state designated to conduct such proceedings.

5. Any person charged fees by a third-party restaurant reservation service with respect to a reservation listed, advertised, promoted, or sold in violation of this section, or food service establishment which a third-party restaurant reservation service listed, advertised, promoted, or sold a reservation in violation of this section, may bring a civil action in any court of competent jurisdiction to recover:

(a) Injunctive relief to restrain or enjoin any activity in violation of this section;

(b) Actual damage, provided that such actual damages may not exceed the total fees collected by the third-party restaurant reservation service with respect to the violation at issue; and

(c) Attorneys' fees and costs, and such other remedies as a court may deem appropriate.

6. Any action alleging a violation of this section shall be brought within one year after the acts alleged to have violated this section occurred.

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