

# STATE OF NEW YORK

10595

## IN ASSEMBLY

June 20, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Mitaynes, Forrest, Mamdani, Shrestha, Gallagher) -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to gratuities received by third-party food delivery workers

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

1 Section 1. The general business law is amended by adding a new section  
2 391-w to read as follows:

3 § 391-w. Third-party food delivery gratuity charge. 1. As used in this  
4 section, the following terms shall have the following meanings:

5 (a) "Gratuity charge" means any payment made in the process of placing  
6 an online order that is intended for direct transfer to the delivery  
7 worker rather than to the third-party food delivery service.

8 (b) "Online order" means any order placed by a customer through or  
9 with the assistance of a platform provided by a third-party food deliv-  
10 ery service, including a telephone order.

11 (c) "Third-party food delivery service" means any website, mobile  
12 application or other internet service that offers or arranges for the  
13 sale of food and beverages prepared by, and the same-day delivery or  
14 same-day pickup of food and beverages from, no fewer than twenty food  
15 service establishments located in the state that are owned and operated  
16 by different persons.

17 (d) "Delivery worker" means any individual hired to fulfill online  
18 orders placed with a third-party food delivery service.

19 2. Notwithstanding any other law, rule or regulation to the contrary:

20 (a) All third-party food delivery services shall offer the option of  
21 charging a gratuity charge at the same point in the online order process  
22 when the underlying order is placed.

23 (b) No third-party food delivery service shall reduce the compen-  
24 sation, including but not limited to, any tip or gratuity, paid to any  
25 worker, as a result of compliance with the provisions of this section.

26 3. Whenever there shall be a violation of this section, an application  
27 may be made by the attorney general in the name of the people of the

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

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1 state of New York to a court or justice having jurisdiction to issue an  
2 injunction to enjoin and restrain the continuance of such violation; and  
3 if it shall appear to the satisfaction of the court or justice that the  
4 defendant has, in fact, violated this section, an injunction may be  
5 issued by such court or justice, enjoining and restraining any further  
6 violation, without requiring proof that any person has, in fact, been  
7 injured or damaged thereby. In any such proceeding, the court may make  
8 allowances to the attorney general and direct restitution of an amount  
9 not to exceed the amount of fees collected in violation of this section  
10 by a third-party food delivery service, attorneys' fees, and such other  
11 remedies as the court may deem appropriate. Whenever the court shall  
12 determine that a violation of this section has occurred, the court may  
13 impose a civil penalty of not more than one thousand dollars for each  
14 violation. Each day a violation of this section is continued and each  
15 food service establishment charged a fee in violation of this section  
16 shall constitute a separate violation. In connection with any such  
17 proposed application the attorney general is authorized to take proof  
18 and make a determination of the relevant facts and to issue subpoenas in  
19 accordance with the civil practice law and rules.

20 4. This section shall not annul, alter, impair or affect the laws,  
21 ordinances, regulations or rules of local governments that have adopted  
22 or amended local laws, ordinances, regulations or rules not inconsistent  
23 with this section, including without limitation cities with a population  
24 of one million or more, while such local laws, ordinances, regulations  
25 or rules remain in effect.

26 § 2. This act shall take effect immediately.