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:

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

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

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

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

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

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

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

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

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

3. Whenever there shall be a violation of this section, an application 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.

LBD14244-01-4

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

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

§ 2. This act shall take effect immediately.