

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 Assem-
bly, 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. Surge pricing prohibited. 1. For purposes of this section,
4 the following terms shall have the following meanings:

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

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

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

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

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

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

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

LBD14825-01-4

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

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