

# STATE OF NEW YORK

5388

2025-2026 Regular Sessions

## IN ASSEMBLY

February 13, 2025

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

AN ACT to amend the general business law, in relation to prohibiting deceptive gratuity solicitations

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  
2 349-h to read as follows:

3 § 349-h. Deceptive gratuity solicitations. 1. Definitions. As used in  
4 this section, the following terms shall have the following meanings:

5 (a) "Point-of-sale terminal" shall mean an electronic device through  
6 which a consumer may initiate payment transactions.

7 (b) "Establishment" shall mean a place of business that is open to the  
8 public in the state of New York.

9 (c) "Automatic gratuity" shall mean a gratuity that is charged to the  
10 consumer's bill automatically and without further action from the  
11 consumer, regardless of the consumers ability to reduce or increase such  
12 gratuity.

13 2. Deceptive gratuities. It shall be unlawful to solicit a gratuity in  
14 a deceptive manner. A gratuity is deemed to have been solicited in a  
15 deceptive manner where:

16 (a) a suggested percentage or an automatic gratuity is provided and  
17 such dollar amount that is communicated to the consumer that is repres-  
18 ented by such percentage or automatic gratuity is inaccurate;

19 (b) a suggested percentage or an automatic gratuity is provided and  
20 such percentage is calculated from the total amount owed including tax  
21 or any other fees that the establishment may impose;

22 (c) other than situations where an automatic gratuity is provided, the  
23 ability to add no gratuity is not presented as a prominent and easily  
24 selectable individual option;

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

LBD08426-01-5

1 (d) a suggested percentage is provided and lacks the corresponding  
2 dollar amount, or a suggested dollar amount is provided and lacks the  
3 corresponding percentage, without such corresponding dollar amount or  
4 percentage being conspicuously disclosed in close proximity to its  
5 corresponding suggested percentage or dollar amount; or

6 (e) the solicitation is presented or functions in a manner proscribed  
7 by rules and regulations promulgated by the attorney general.

8 3. Manufacturer's duties and liability. A manufacturer, software  
9 provider, or any entity responsible for developing or providing software  
10 for point-of-sale terminals:

11 (a) shall ensure that all terminals sold after the effective date of  
12 this section do not include or have implemented any design or function,  
13 or any ability for an establishment to add a design or function, within  
14 a point-of-sale terminal that violates this section; and

15 (b) which has the ability to furnish software updates to existing  
16 point-of-sale terminals shall update such terminals to exclude any  
17 prohibited designs or functions that violate this section by the effec-  
18 tive date of this section or, at such time when the attorney general  
19 proscribes additional deceptive designs or functions, that such termi-  
20 nals exclude any such prohibited designs or functions within a reason-  
21 able period of time as prescribed by the attorney general.

22 4. Establishment's duties and liability. An establishment:

23 (a) shall not solicit a gratuity in a deceptive manner in violation of  
24 subdivision two of this section;

25 (b) that has a non-compliant point-of-sale terminal in use shall bring  
26 such terminal into compliance with this section by the effective date of  
27 this section. Where such terminal cannot be brought into compliance with  
28 this section because the point-of-sale terminal does not provide the  
29 options to become compliant as provided by this section, the establish-  
30 ment shall not be liable for failing to bring the point-of-sale terminal  
31 into compliance. Where the manufacturer, software provider, or entity  
32 responsible for the point-of-sale system updates the system to provide  
33 the options to bring the point-of-sale terminal into compliance, the  
34 establishment shall bring the terminal into compliance by the effective  
35 date of this section. Where the updates to the point-of-sale terminal  
36 are provided within sixty days of the effective date of this section,  
37 the establishment shall have an additional sixty days to bring the  
38 point-of-sale terminal into compliance. At such time when the attorney  
39 general proscribes additional deceptive designs or functions, an estab-  
40 lishment shall exclude any such prohibited designs or functions within  
41 their terminal within a reasonable period of time as prescribed by the  
42 attorney general; and

43 (c) that manufactures or designs its own point-of-sale terminal shall  
44 have the same responsibilities and liability as a manufacturer as  
45 provided by subdivision three of this section.

46 § 2. This act shall take effect one year after it shall have become a  
47 law. Effective immediately, the addition, amendment and/or repeal of any  
48 rule or regulation necessary for the implementation of this act on its  
49 effective date are authorized to be made and completed on or before such  
50 effective date.