

STATE OF NEW YORK

5431

2025-2026 Regular Sessions

IN ASSEMBLY

February 14, 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 automatic gratuities

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. Restrictions on automatic gratuities. 1. Definitions. As used
4 in this section, the following terms shall have the following meanings:

5 (a) "Automatic gratuity" shall mean a gratuity that is charged to the
6 consumer's bill automatically, regardless of the consumers right or
7 ability to reduce or increase such gratuity.

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

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

12 2. Deceptive automatic gratuities. An automatic gratuity shall be
13 deemed to be deceptive where:

14 (a) the establishment does not take reasonable steps to ensure that
15 the consumer is made aware of the automatic gratuity prior to making an
16 order while on the premises of the establishment;

17 (b) the automatic gratuity is based on taxes, fees, or charges other
18 than the itemized charges for services rendered or goods received;

19 (c) the option to add an additional gratuity is presented to the
20 consumer and the statement "A TIP HAS ALREADY BEEN ADDED TO YOUR BILL"
21 is not conspicuously placed near such option with no additional words
22 added to such statement; and

23 (d) the attorney general promulgates rules or regulations pertaining
24 to automatic gratuities and such rules or regulations are violated.

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

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

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

8 (b) which has the ability to furnish software updates to existing
9 point-of-sale terminals, shall update such terminals to exclude any
10 prohibited designs or functions that violate this section by the effec-
11 tive date of this section or, at such time when the attorney general
12 promulgates rules and regulations pertaining to automatic gratuities,
13 shall bring their point-of-sale terminals into compliance with such
14 rules and regulations within a reasonable period of time as prescribed
15 by the attorney general.

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

17 (a) shall not add an automatic gratuity to a consumer's bill where
18 such addition shall violate the provisions of subdivision two of this
19 section;

20 (b) that has a point-of-sale terminal in use that makes compliance
21 possible, the establishment shall bring such terminal into compliance
22 with this section by the effective date of this section. Where a termi-
23 nal does not provide the ability to make compliance possible, the estab-
24 lishment shall not be liable for failing to bring the point-of-sale
25 terminal into compliance. Where the manufacturer, software provider, or
26 entity responsible for the point-of-sale system updates the system to
27 provide the options to bring the point-of-sale terminal into compliance,
28 the establishment shall bring the terminal into compliance by the effec-
29 tive date of this section. Where the updates to the point-of-sale termi-
30 nal are provided within sixty days of the effective date of this
31 section, the establishment shall have an additional sixty days to bring
32 the point-of-sale terminal into compliance;

33 (c) shall, at such time when the attorney general promulgates rules
34 and regulations pertaining to automatic gratuities, comply with such
35 rules and regulations within a reasonable period of time as prescribed
36 by the attorney general; and

37 (d) that manufactures or designs its own point-of-sale terminals shall
38 have the same responsibilities and liability as a manufacturer as
39 provided by subdivision three of this section.

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