STATE OF NEW YORK

7376--B

Cal. No. 458

2025-2026 Regular Sessions

IN ASSEMBLY

March 25, 2025

Introduced by M. of A. MITAYNES, FORREST, SHRESTHA, GALLAGHER, LEE, VALDEZ, ROSENTHAL -- read once and referred to the Committee on Consumer Affairs and Protection -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- advanced to a third reading, passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the general business law, in relation to the payment of gratuities for orders placed through third-party food delivery services and third-party grocery delivery services

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-vv to read as follows:

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

(a) "Gratuity" means a sum of money (i) paid voluntarily by a customer when placing an online order or after delivery of such online order, (ii) that is in addition to the purchase price and other mandatory charges such as taxes and fees, (iii) the amount of which the customer may choose, and (iv) that is referred to on the third-party food delivery platform as a gratuity, tip or other similar term that would suggest to a reasonable person that the sum, or a substantial portion thereof, would be received by the worker delivering goods in addition to such worker's base wage.

(b) "Third-party food delivery service" shall have the same meaning as in section three hundred ninety-one-v of this article.

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

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(c) "Third-party grocery delivery service" means any website, mobile application, or other internet service that facilitates, offers or arranges for the delivery of goods from a business establishment that is licensed as a food processing establishment pursuant to article twenty-C of the agriculture and markets law or as a retail food store or food warehouse pursuant to article twenty-eight of the agriculture and markets law.

(d) "Worker" means a natural person who is hired or retained as an independent contractor by a third-party food delivery service or a third-party grocery delivery service to deliver, select, prepare, or assemble orders in exchange for compensation.

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

(a) All third-party food delivery services and third-party grocery delivery services shall offer the option of paying a gratuity at the same point in the online order process when the underlying order is placed. Such third-party food delivery service or third-party grocery delivery service shall provide such option to pay a gratuity in plain language and in a conspicuous manner before or at the same time such customer places the online order.

(b) Nothing herein shall be construed to require a customer to pay a gratuity or to prohibit a third-party food delivery service or third-party grocery delivery service from providing a customer with an additional opportunity to add, remove, or adjust a gratuity after an order is placed.

(c) No third-party food delivery service or third-party grocery 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. Any person that violates the provisions of subdivision two of this section shall be subject to a civil penalty of up to one thousand dollars for each violation. The provisions of this section shall be enforced concurrently by the director or commissioner of a municipal consumer affairs office, or by the town attorney, city corporation counsel, or other lawful designee of a municipal or local government, and all moneys collected thereunder shall be retained by such municipality or local government.

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.