



Legislation Text

---

**File #:** Int 0813-2022, **Version:** \*

---

Int. No. 813

By Council Members Holden, Velázquez, Salamanca, Feliz, Riley, Dinowitz, Narcisse, Paladino, Hanks, Carr, Louis, Abreu, Williams, Farías, Stevens, Menin, Schulman, Joseph, Yeger, Brooks-Powers, Ung, Brannan, De La Rosa, Kagan, Borelli, Ariola and Vernikov

A Local Law to amend the administrative code of the city of New York, in relation to establishing exemptions for third-party food delivery services from the limits on fees charged by such services on food service establishments

Be it enacted by the Council as follows:

Section 1. Section 20-563.3 of the administrative code of the city of New York, as added by local law number 103 for the year 2021, is amended to read as follows:

a. It shall be unlawful for a third-party food delivery service to charge a food service establishment a delivery fee that totals more than 15% of the purchase price of each online order.

b. It shall be unlawful for a third-party food delivery service to charge a food service establishment any fee or fees, other than a delivery fee and a transaction fee, for the use of their service that totals more than 5% of the purchase price of each online order.

c. It shall be unlawful for a third-party food delivery service to charge a food service establishment a transaction fee that totals more than 3% of the purchase price of each online order, provided however that a third-party food delivery service may charge a food service establishment a transaction fee of more than 3% of the purchase price of an online order if: (i) such transaction fee is charged to the food service establishment in the same amount as the charge imposed upon the third-party food delivery service for such online order, and (ii) such third-party food delivery service can provide proof of such charge imposed upon it to both the department and the relevant food service establishment upon request.

d. Subdivisions a, b and c of this section shall not apply to a third-party food delivery service that provides a food service establishment with: (i) the option to obtain delivery services for a fee consistent with the cap on fees as set forth in subdivisions a, b and c of this section, and (ii) the option to be listed on the third-party food delivery service platform for a fee consistent with the caps on fees as set forth in subdivisions b and c of this section.

e. No later than September 30, 2023, and every two years thereafter, the commissioner shall submit to the speaker of the council and the mayor a report on the fee cap pursuant to this section, which shall include but not be limited to recommendations related to either the maintenance or adjustment of the fee cap as set forth in this section, in consideration of factors from the immediately preceding two years, such as:

1. The effect of the cap as set forth in subdivisions a, b and c of this section and the effect of the exemption as set forth in subdivision d of this section on third-party food delivery services and food service establishments, including, but not limited to, the effect on the revenue of third-party food delivery services and the effect on the marketing and revenue of food service establishments;

2. Whether [the cap] such cap or such exemption affects wages and working conditions for persons who deliver food or beverages for third-party food delivery services;

3. Products that third-party food delivery services offer to food service establishments for listing, processing and marketing;

4. The number of complaints made to the department related to the alleged violations of this subchapter and the number of violations issued under this subchapter;

5. The total amount of penalties imposed as a result of violations of this subchapter; and

6. The amount of restitution recovered on behalf of food service establishments pursuant to this subchapter.

§ 2. This local law takes effect 120 days after it becomes law, except that the commissioner of consumer and worker protection shall take such measures as are necessary for the implementation of this local law,

including the promulgation of rules, before such date.

NLB  
LS #8717  
8/25/2022