Legislation Details (With Text)

File #:	Int 0559-2022 **Version:** A	**Name:**	Restricting the provision of eating utensils, condiment packets, napkins and extra eating containers, and clarifying the definition of third-party courier service.
Type:	Introduction	**Status:**	Enacted
		In control:	Committee on Consumer and Worker Protection
On agenda:	6/16/2022		
Enactment date:	2/1/2023	**Enactment #:**	2023/017

Title: A Local Law to amend the administrative code of the city of New York, in relation to restricting the provision of eating utensils, condiment packets, napkins and extra eating containers, and clarifying the definition of third-party courier service

Sponsors: Marjorie Velázquez, Erik D. Bottcher, Justin L. Brannan, Tiffany L. Cabán, Shaun Abreu, Gale A. Brewer, Rita C. Joseph, Crystal Hudson, Lincoln Restler, James F. Gennaro, Shekar Krishnan, Julie Won, Alexa Avilés, Selvena N. Brooks-Powers, Chi A. Ossé, Carlina Rivera, Sandy Nurse, Julie Menin, Shahana K. Hanif, Carmen N. De La Rosa, Christopher Marte, Mercedes Narcisse, Jennifer Gutiérrez, Keith Powers, Pierina Ana Sanchez, Rafael Salamanca, Jr., Amanda C. Farías, Diana I. Ayala, Oswald J. Feliz, Linda Lee, Sandra Ung, Nantasha M. Williams, Kamillah Hanks, Robert F. Holden, Francisco P. Moya, Charles Barron, Kristin Richardson Jordan, Althea V. Stevens, Farah N. Louis, Eric Dinowitz, (in conjunction with the Brooklyn Borough Presiden

Indexes: Report Required

Attachments: 1. Summary of Int. No. 559-A, 2. Summary of Int. No. 559, 3. Int. No. 559, 4. June 16, 2022 - Stated Meeting Agenda, 5. Hearing Transcript - Stated Meeting 6-16-22, 6. Minutes of the Stated Meeting - June 16, 2022, 7. Committee Report 12/12/22, 8. Hearing Testimony 12/12/22, 9. Hearing Transcript 12/12/22, 10. Proposed Int. No. 559-A - 1/13/23, 11. Committee Report 1/19/23, 12. Hearing Transcript 1/19/23, 13. January 19, 2023 - Stated Meeting Agenda, 14. Hearing Transcript - Stated Meeting 1-19-23, 15. Minutes of the Stated Meeting - January 19, 2023, 16. Int. No. 559-A (FINAL), 17. Fiscal Impact Statement, 18. Mayor's Letter, 19. Local Law 17

Date	Ver.	Action By	Action	Result
6/16/2022	*	City Council	Introduced by Council	
6/16/2022	*	City Council	Referred to Comm by Council	
12/12/2022	*	Committee on Consumer and Worker Protection	Hearing Held by Committee	
12/12/2022	*	Committee on Consumer and Worker Protection	Laid Over by Committee	
1/19/2023	*	Committee on Consumer and Worker Protection	Hearing Held by Committee	
1/19/2023	*	Committee on Consumer and Worker Protection	Amendment Proposed by Comm	
1/19/2023	*	Committee on Consumer and Worker Protection	Amended by Committee	
1/19/2023	A	Committee on Consumer and Worker Protection	Approved by Committee	Pass
1/19/2023	A	City Council	Approved by Council	Pass
1/19/2023	A	City Council	Sent to Mayor by Council	
2/1/2023	A	Mayor	Hearing Held by Mayor	

powered by Legistar™

2/1/2023	A	Mayor	Signed Into Law by Mayor
2/3/2023	A	City Council	Recved from Mayor by Council

Int. No. 559-A

By Council Members Velázquez, Bottcher, Brannan, Cabán, Abreu, Brewer, Joseph, Hudson, Restler, Gennaro, Krishnan, Won, Avilés, Brooks-Powers, Ossé, Rivera, Nurse, Menin, Hanif, De La Rosa, Marte, Narcisse, Gutiérrez, Powers, Sanchez, Salamanca, Farías, Ayala, Feliz, Lee, Ung, Williams, Hanks, Holden, Moya, Barron, Richardson Jordan, Stevens, Louis and Dinowitz (in conjunction with the Brooklyn Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to restricting the provision of eating utensils, condiment packets, napkins and extra eating containers, and clarifying the definition of third-party courier service

Be it enacted by the Council as follows:

Section 1. Chapter 4 of title 16 of the administrative code of the city of New York is amended by adding a new section 16-402 to read as follows:

§ 16-402 Restrictions on providing eating utensils, condiment packets, napkins and extra eating containers. a. Definitions. For purposes of this section:

Condiment packet. The term "condiment packet" means an individual single-service container, sealed by the manufacturer, containing a sauce or other substance used to enhance the flavor of food, which may include, but need not be limited to, mustard, ketchup, mayonnaise, soy sauce, hot sauce or salad dressing.

Eating container. The term “eating container” means a tool used for holding food or beverage, including but not limited to, a plate, bowl, cup, or lid, but does not include a beverage splash stick as defined in section 16-401.

Eating utensil. The term “eating utensil” means a tool used for eating and drinking, including, but not limited to, a knife, fork, spoon, or chopsticks, but does not include a beverage stirrer or beverage straw as defined in section 16-401.

Extra eating container. The term “extra eating container” means an empty eating container that is not used to hold a customer’s food or beverage.

Food service establishment. The term “food service establishment” has the same meaning as set forth in

section 16-401.

Napkin. The term “napkin” means a piece of cloth or paper used to wipe a person’s hands or face or protect garments while eating.

Take-away. The term “take-away” means food or beverage provided by a food service establishment to be consumed off the premises of such food service establishment.

Third-party courier service. The term "third-party courier service" means a service that: (i) facilitates the same-day delivery or same-day pickup of food, beverages, or other goods from a food service establishment on behalf of such food service establishment or a third-party food delivery service; (ii) is owned and operated by a person other than the person who owns such food service establishment, and (iii) is not a third-party food delivery service.

Third-party food delivery service. The term “third-party food delivery service” means any website, mobile application or other internet service that: (i) offers or arranges for the sale of food and beverages prepared by, and the same-day delivery or same-day pickup of food and beverages from, a food service establishment; and (ii) that is owned and operated by a person other than the person who owns such food service establishment.

b. No food service establishment shall provide eating utensils, condiment packets, napkins, or extra eating containers to a take-away customer, whether directly to such customer or through a third-party courier service or third-party food delivery service, unless such customer requests eating utensils, condiment packets, napkins, or extra eating containers. A food service establishment maintaining a self-service station at which such items are offered shall not be a violation of this subdivision.

c. 1. Third-party food delivery services shall provide options to allow a customer to request eating utensils, condiment packets, napkins, and extra eating containers upon submission of an order, if such items are offered by the food service establishment fulfilling such order. Such options shall be prominently and conspicuously provided for all methods of ordering, including but not limited to phone, internet, or mobile

phone application orders. The default selected option shall be that no eating utensils, condiment packets, napkins, or extra eating containers are requested.

2. No third-party courier service or third-party food delivery service shall provide eating utensils, condiment packets, napkins, or extra eating containers to a customer, unless such eating utensils, condiment packets, napkins, or extra eating containers are requested by such customer, or such eating utensils, condiment packets, napkins or extra eating containers are in the food or beverage packaged by the food service establishment for delivery when such third-party courier service or third-party food delivery service picks up such food or beverage.

3. If a food service establishment fills an order placed through a third-party food delivery service, such food service establishment may rely on the information provided by such third-party food delivery service regarding whether the customer has requested eating utensils, condiment packets, napkins, or extra eating containers pursuant to paragraph 1 of this subdivision. In a proceeding to collect a civil penalty pursuant to subdivision f of this section, it shall be a complete defense for a respondent food service establishment to establish that such food service establishment relied on the information provided to it by the third-party food delivery service regarding the customer's choice pursuant to paragraph 1 of this subdivision. A copy or screenshot of a communication by the third-party food delivery service to the food service establishment regarding the customer's choice pursuant to paragraph 1 of this subdivision shall constitute prima facie evidence that the food service establishment relied on the information provided to it by the third-party food delivery service. Each third-party food delivery service shall provide such communication in writing to a food service establishment within 72 hours of such food service establishment’s request for such communication.

d. The department and the department of consumer and worker protection shall have the authority to enforce the provisions of this section.

e. In consultation with other city agencies, the department shall conduct outreach and education about the requirements of this section.

f. Any food service establishment, third-party food delivery service, or third-party courier service that violates this section or any rule promulgated pursuant thereto shall be liable for a civil penalty recoverable in a civil action brought in the name of the commissioner or the commissioner of consumer and worker protection, or in a proceeding before the office of administrative trials and hearings pursuant to section 1049-a of the charter, or in the case of a food service establishment within the jurisdiction of the commissioner of consumer and worker protection, in a proceeding before the office of administrative trials and hearings pursuant to section 1048 of the charter. Such penalties shall be in the amount of $50 for the first violation, $150 for the second violation committed on a different day within a period of 12 months, and $250 for the third and each subsequent violation committed on different days within a period of 12 months, except that any agency enforcing the provisions of this section shall not issue a notice of violation, but shall issue a warning and provide information on the provisions of this section, for any violation that occurs before July 1, 2024.

g. The department, as part of the waste characterization study required pursuant to subdivision b of section 16-316.1, shall, where practicable, assess the amount of single-use items in the waste stream and the change in such amount from any previous studies. The department shall include such information in such study submitted to the council and the mayor.

§ 2. Section 20-1501 of the administrative code of the city of New York, as added by local law number 114 for the year 2021, is amended to read as follows:

Third-party courier service. The term "third-party courier service" means a service that (i) facilitates the same-day delivery or same-day pickup of food, beverages, or other goods from a food service establishment on behalf of such food service establishment or a third-party food delivery service; [and] (ii) that is owned and operated by a person other than the person who owns such food service establishment; and (iii) and is not a third-party food delivery service.

§ 3. This local law takes effect 180 days after it becomes law, except that section two of this local law takes effect immediately.

powered by Legistar™

Session 12
XC/SS
LS #8492
1/11/23

Session 11
YJY/NKA/SJ
LS # 9832
12/12/2021 10:30 PM