



Legislation Text

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Int. No. 1846

By Council Members Chin, Ayala, Lander, Koslowitz, Menchaca, Rivera, Van Bramer, Rosenthal, Reynoso, Brannan, Barron and the Public Advocate (Mr. Williams)

A Local Law to amend the administrative code of the city of New York, in relation to the disclosure of gratuity policies for delivery workers

Be it enacted by the Council as follows:

Section 1. Chapter 12 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 7 to read as follows:

Subchapter 7

Delivery Workers

§ 20-1271 Definitions. As used in this subchapter, the following terms have the following meanings:

Base wage. The term “base wage” means money paid, whether by the hour or otherwise, to a delivery worker by an employer in exchange for work performed, not including gratuities, bonuses, allowances, shift differentials or other monetary payments that may contribute to such worker’s total compensation.

Covered establishment. The term “covered establishment” means any food service establishment, retail store or other commercial business that offers, in a single commercial transaction over the internet, whether directly or through a third-party application, the sale and same-day delivery of goods to customers from one or more retail locations within the city.

Food service establishment. The term “food service establishment” means any establishment inspected pursuant to the restaurant grading program established pursuant to subdivision a of section 81.51 of the health code of the city of New York.

Goods. The term “goods” means any merchandise, product or ware offered for sale, including but not limited to food products, groceries, meals and non-food products.

Gratuity. The term “gratuity” means a sum of money, paid voluntarily by a customer, when or after ordering goods for delivery from a covered establishment, in addition to the price of such goods and other mandatory charges such as taxes and fees, where such voluntary sum is paid through a third-party application that allows the customer to choose the amount of the voluntary sum and that refers to the sum as a gratuity or tip, or by another, similar name that would suggest to a reasonable person that the sum, or a substantial portion thereof, would be received by the worker delivering the order in addition to the worker’s base wage.

Third-party application. The term “third-party application” means a person who provides a website, mobile application or other internet service that allows a customer to order goods from a covered establishment and arranges for the delivery of those goods to such customer.

§ 20-1272 Disclosure. a. Before or at the same time as a gratuity is solicited from a customer in connection with the purchase and delivery of a good from a covered establishment through a third-party application, such third-party application shall disclose the following information, in plain and simple language and in a conspicuous manner, to such customer about its policies and the policies of such covered establishment regarding gratuities for delivery workers in connection with the delivery of purchased goods:

1. The proportion or fixed amount of each gratuity that is distributed to the worker who delivered the goods purchased, including whether such gratuity is required to be shared with other workers;

2. How gratuities are distributed to delivery workers, whether immediately or otherwise, and in what form of payment, whether cash or otherwise; and

3. The amount of each gratuity that is used to compose each delivery worker’s base wage.

b. Each covered establishment shall provide such disclosure to each third-party application through which such goods are being offered for delivery to customers to allow compliance with subdivision a.

§ 20-1273 Accuracy of representations; recordkeeping. a. No covered establishment or third-party

application may misstate or misrepresent any information in the disclosure required by section 20-1272.

b. Such covered establishments and third-party applications shall maintain records demonstrating the provision of such disclosure to customers, and substantiating all the information therein, for three years from the date of each customer's transaction.

§ 20-1274 Penalties. Any person that violates any provision of this subchapter or any rule promulgated pursuant to this subchapter is liable for a civil penalty of not less than \$250 nor more than \$1,000 for each violation. A proceeding to recover any civil penalty authorized pursuant to this subchapter may be brought in any tribunal established within the office of administrative trials and hearings or within any agency of the city designated to conduct such proceedings. For the purposes of this section, each calendar day during which a person is found to have violated this subchapter shall be considered a separate violation, even if such violation affects more than one customer.

§ 2. This local law takes effect 180 days after it becomes law, except that the commissioner of consumer affairs shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

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