



Legislation Text

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Int. No. 2294

By Council Members Lander and Menchaca

A Local Law to amend the administrative code of the city of New York, in relation to establishing minimum per trip payments to third party food delivery service workers

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-565.6 to read as follows:

§ 20-565.6 Minimum per trip payments. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Food service establishment. The term “food service establishment” has the same meaning as provided in subdivision s of section 81.03 of the health code of the city of New York.

Gratuity. The term “gratuity” means a voluntary payment from a customer to a third party delivery worker made in addition to the total cost of the delivery service, food and any other taxes, fees or surcharges.

Third party food delivery service. The term “third party food delivery service” means any website, mobile application or other internet service that 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, no fewer than 20 separately owned and operated food service establishments.

Third party food delivery worker. The term “third party food delivery worker” means any person engaged by a third party food delivery service to carry out deliveries.

Trip. For purposes of this section, the term “trip” means the entirety of the process by which a worker is engaged to provide food delivery services to a customer through a third party delivery service, to include travel

to a food service establishment, picking up prepared food for delivery, taking and depositing such delivery at a different location as requested, and any associated waiting time.

b. Minimum payments. 1. In the nine months following the effective date of this law, the department shall study the working conditions for third party food delivery workers. In conducting such study, the department may coordinate with any other agency, office, or organization deemed relevant. Such study shall include, at minimum, per trip pay and the methods by which such pay is determined, total income, expenses and required equipment, hours worked, trip mileage, mode of travel, safety, and any other topics relevant to third party food delivery workers, as determined by the department.

2. Following the study required by this subdivision, the department shall by rule establish a method for determining the minimum payment that must be made to a third party food delivery worker for any trip dispatched by a third party food delivery service. In establishing such method, the department shall, at minimum, consider the duration and distance of the trip, the mode of transportation used by the worker and the associated expenses of operation, the type of trip, including the number of separate deliveries made along a route, the adequacy of third party delivery worker income considered in relation to expenses, and any other relevant factors, as determined by the department. Minimum per trip payments shall not include any taxes, fees or surcharges imposed on the purchase of food or food deliveries. Any rules promulgated by the department pursuant to this subdivision shall not prevent payments to third party delivery workers from being calculated on an hourly or weekly basis, or by any other method, provided that the actual payments made to such drivers are no less than the minimum payments determined by the department.

c. Gratuities. Minimum payments determined by the department pursuant to this section shall not include gratuities. Third party delivery services shall not use gratuities to offset minimum payments required by this section.

d. Review. No less than once annually, the department shall review the minimum payments established pursuant to this section to determine whether any amendment of such payments is warranted or necessary. If the

department determines that such an amendment is warranted or necessary, it is hereby authorized to promulgate such amendment by rule.

e. Report. In conjunction with the review required by subdivision d of this section, the department shall, at least once annually, submit to the council and the mayor a report on the minimum payment standards, any changes to such standards, and the effect of such minimum payment standards on food delivery workers and the food delivery industry.

§ 2. This local law takes effect immediately.

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