



Legislation Text

File #: Int 2298-2021, Version: *

Int. No. 2298

By Council Members Rivera, the Public Advocate (Mr. Williams) and Menchaca

A Local Law to amend the administrative code of the city of New York, in relation to requiring food service establishments to provide toilet facility access to food 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 8 to read as follows:

SUBCHAPTER 8

TOILET FACILITY ACCESS FOR FOOD DELIVERY WORKERS

§ 20-1281 Definitions. As used in this subchapter, the following terms have the following meanings:

Food delivery worker. The term “food delivery worker” means an individual who is hired or retained as an independent contractor by a food service establishment or as an independent contractor or employee of a third-party food delivery service to deliver food or beverage from such establishment to a consumer in exchange for compensation.

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

Toilet facility. The term “toilet facility” means a food service establishment’s toilet facility for its patrons, where such establishment has a dedicated facility for its patrons; or a food service establishment’s toilet facility for its employees, where such establishment does not have a dedicated facility for its patrons.

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, food service establishments.

§ 20-1282 Access to toilet facility. A food service establishment that has a toilet facility and that utilizes food delivery workers shall provide such workers access to its toilet facility while such workers are lawfully on such establishment's premises to pick up such establishment's food or beverage for consumer delivery.

§ 20-1283 Exceptions. a. Notwithstanding the requirements of section 20-1282 and section 492 of the general business law, a food service establishment shall not be required to provide food delivery workers access to its toilet facility in the following circumstances:

1. Where accessing the toilet facility would require a food delivery worker to walk through such establishment's kitchen, food preparation or storage area or utensil washing area to access such facility, pursuant to subdivision d of section 81.22 of the health code;

2. Where accessing the toilet facility would create an obvious health and safety risk to the food delivery worker or to the establishment; and

3. Any additional exceptions that the commissioner promulgates by rule.

b. The commissioner, in consultation with the commissioner of health and mental hygiene, shall promulgate rules necessary and appropriate to the administration of this section. Such rules shall identify:

1. The circumstances where access to a toilet facility would create an obvious health or safety risk to the food delivery worker or to the food service establishment;

2. Any precautions an establishment may take to mitigate such health or safety risks; and

3. The obligations of the food service establishment to provide access to a toilet facility during any restrictions on indoor dining at such establishment, issued by the governor of the state of New York, the New York state department of health or other relevant agencies.

§ 20-1284 Enforcement and penalties. a. The commissioner shall enforce the provisions of this

subchapter. In doing so, the commissioner shall establish a system that provides a food delivery worker multiple means to communicate complaints regarding a food service establishment's non-compliance with this subchapter and that allows for the investigation of such complaints in a timely manner.

b. A food service establishment that the commissioner finds to be in violation of this subchapter shall be liable for a civil penalty of not more than \$50 for the first violation and not more than \$100 for each subsequent violation.

c. The commissioner shall promulgate rules necessary and appropriate to the administration of this section.

§ 20-1285 Outreach. No more than 30 days after the effective date of the local law that added this subchapter, the commissioner, in collaboration with relevant agencies, food service establishments, third-party food delivery services and relevant stakeholders, shall conduct culturally appropriate outreach in the designated citywide languages, as defined in section 23-1101, to alert food delivery workers and food service establishments to this subchapter. Such outreach shall include, but need not be limited to, posting information on relevant government websites and distributing information to food delivery workers, food service establishments, third-party food delivery services and relevant stakeholders.

§ 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.