



Legislation Text

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Int. No. 2334

By Council Members Gjonaj, Perkins, Koo and Cornegy

A Local Law to amend the administrative code of the city of New York, in relation to online order changes made by third-party food delivery services

Be it enacted by the Council as follows:

Section 1. Subchapter 22 of chapter 5 of the administrative code of the city of New York is amended by adding a new section 20-848 to read as follows:

§ 20-848. Online order changes. a. A third-party food delivery service shall not make any changes to an online order, including the amount charged to the customer or owed to the food service establishment for such order, unless such third-party food delivery service first informs such food service establishment of the proposed change and allows the food service establishment to contest the change. If after informing the food service establishment and allowing it to contest the change, the third-party food delivery service decides to make the change, such decision shall be communicated to the food service establishment before informing the customer.

b. A third-party food delivery service shall charge a food service establishment no more than 50 percent of the total cost of refunding a customer for such customer's online order, unless the purpose for such refund is not related to a service provided by the third-party food delivery service.

§ 2. Section 20-848 of the administrative code of the city of New York, as amended by local law number 51 for the year 2020, is renumbered and amended to read as follows:

§ [20-848] 20-849. Penalties and enforcement. a. Any person that violates any provision of section 20-846 or any rule promulgated pursuant thereto shall be subject to a civil penalty that shall not exceed \$1,000 per

violation. Any person that violates any provision of section 20-847, subdivision b of section 20-848, or any rule promulgated pursuant thereto shall be subject to a civil penalty that shall not exceed \$500 per violation. Any person that violates subdivision a of section 20-848 or any rule promulgated pursuant thereto shall be subject to a civil penalty that shall not exceed \$50 per violation. Violations under this subchapter shall accrue on a daily basis for each day and for each food service establishment [charged a fee in violation of] in relation to which a third-party food delivery service has committed a violation under this subchapter or any rule promulgated pursuant to this subchapter. 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.

b. A civil action may be brought by the corporation counsel on behalf of the city in any court of competent jurisdiction to recover any or all of the following:

1. Any civil penalty authorized pursuant to this section;
2. Injunctive relief to restrain or enjoin any activity in violation of this section;
3. Restitution of an amount not to exceed the amount of fees collected by a third-party food delivery service that exceeded the maximum amounts permitted pursuant to this subchapter; and
4. [attorneys'] Attorneys' fees and costs, and such other remedies as a court may deem appropriate.

c. The corporation counsel may initiate any investigation to ascertain such facts as may be necessary for the commencement of a civil action pursuant to this section, and in connection therewith shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents, to administer oaths and to examine such persons as are deemed necessary.

§ 3. This local law takes effect 30 days after it becomes law.

4/23/21