



Legislation Text

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Int. No. 1846-A

By Council Members Chin, Ayala, Lander, Koslowitz, Menchaca, Rivera, Van Bramer, Rosenthal, Reynoso, Brannan, Barron, Kallos 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 food delivery workers

Be it enacted by the Council as follows:

Section 1. Section 20-563 of the administrative code of the city of New York, as added by a local law for the year 2021 amending the administrative code of the city of New York, relating to the licensing of third-party food delivery services, and repealing subchapter 22 of chapter 5 of title 20 of the administrative code of the city of New York, relating to third-party food delivery services, as proposed in introduction number 1897 for the year 2020, is amended by adding new definitions of “base wage” and “gratuity” in alphabetical order to read as follows:

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

Gratuity. The term “gratuity” means a sum of money (i) paid voluntarily by a customer when placing an online order or after delivery of such online order, (ii) that is in addition to the purchase price and other mandatory charges such as taxes and fees, (iii) the amount of which the customer may choose, and (iv) that is referred to on the third-party food delivery platform as a gratuity, tip or other similar term that would suggest to a reasonable person that the sum, or a substantial portion thereof, would be received by the food delivery

worker delivering goods in addition to such food delivery worker's base wage.

§ 2. Section 20-563.2 of the administrative code of the city of New York, as added by a local law for the year 2021 amending the administrative code of the city of New York, relating to the licensing of third-party food delivery services, and repealing subchapter 22 of chapter 5 of title 20 of the administrative code of the city of New York, relating to third-party food delivery services, as proposed in introduction number 1897 for the year 2020, is amended to read as follows:

§ 20-563.2 Issuance of license and certain restrictions on third-party food delivery service conduct. a. A license to operate a third-party food delivery service shall be granted in accordance with the provisions of this subchapter and any rules promulgated by the commissioner thereunder.

b. Restrictions on third-party food delivery service operations.

1. It shall be unlawful for a third-party food delivery service to solicit a gratuity for a food delivery worker hired, retained or engaged by such third-party food delivery service from a customer in connection with an online order unless such third-party food delivery service discloses, in plain language and in a conspicuous manner, the following information before or at the same time as such gratuity is solicited:

(i) The proportion or fixed amount of each gratuity that is distributed to a food delivery worker who delivers the goods purchased; and

(ii) How gratuities are distributed to a food delivery worker, including whether such gratuities are distributed immediately or otherwise, and whether such gratuities are distributed in cash or otherwise.

2. For each transaction, a food delivery worker hired, retained or engaged by a third-party food delivery service shall be notified of how much the customer paid as gratuity, if such customer paid additional gratuity, and if such customer decided to remove the gratuity and the reason for such removal, if such a reason is provided. Upon any change or payment of gratuity, a third-party delivery service shall notify such food delivery worker and credit such gratuity to such worker's account.

3. A third-party food delivery service shall disclose to a food delivery worker hired, retained or engaged

by such third-party food delivery service, the aggregate amount of compensation and aggregate amount of gratuities earned by such food delivery worker on the day after such compensation and gratuities were earned.

§ 3. Subdivision a of section 20-563.8 of the administrative code of the city of New York, as added by a local law for the year 2021 amending the administrative code of the city of New York, relating to the licensing of third-party food delivery services, and repealing subchapter 22 of chapter 5 of title 20 of the administrative code of the city of New York, relating to third-party food delivery services, as proposed in introduction number 1897 for the year 2020, is amended to read as follows:

a. Every third-party food delivery service required to be licensed under this subchapter shall maintain the following records in an electronic format for a period of at least three years:

1. A roster of all food service establishments the third-party food delivery service lists on its website, mobile application, or other third-party food delivery platform and has listed on such website, mobile application, or other third-party food delivery platform;

2. All written agreements with a food service establishment;

3. Records listing itemized fees the third-party food delivery service has charged each food service establishment with which the third-party food delivery service maintains an agreement;

4. Such records related to the ownership of the third-party food delivery service as the commissioner may prescribe by rule; [and]

5. Records demonstrating compliance with the requirements set forth in subdivisions c, d and e of section 20-563.2 of this subchapter; and

6. Such other records as the commissioner may prescribe by rule.

§ 4. This local law takes effect on the same date as a local law amending the administrative code of the city of New York, relating to the licensing of third-party food delivery services, and repealing subchapter 22 of chapter 5 of title 20 of the administrative code of the city of New York, relating to third-party food delivery services, as proposed in introduction number 1897 for the year 2020, takes effect, except that the commissioner

of consumer and worker protection may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, prior to such effective date.

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