



Legislation Text

File #: Int 2294-2021, **Version:** A

Int. No. 2294-A

By Council Members Lander, Menchaca, Chin, Ayala, Van Bramer, Rosenthal, Reynoso, Rivera, Gjonaj, 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 establishing minimum per trip payments to third-party food delivery service and third-party courier service workers

Be it enacted by the Council as follows:

Section 1. Subchapter 2 of chapter 15 of title 20 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, in relation to establishing general provisions related to working conditions for third-party service workers and requiring that third-party food delivery services permit delivery workers to set limitations on distance and route for deliveries, as proposed in introduction number 2289-A for the year 2021, is amended by adding a new section 20-1522, to read as follows:

§ 20-1522 Minimum payment. a. 1. The department shall study the working conditions for food delivery workers. In conducting such study, the department may coordinate with any other agency, organization, or office that can assist in such study. Such study shall include, at minimum, consideration of the pay food delivery workers receive and the methods by which such pay is determined, the total income food delivery workers earn, the expenses of such workers, the equipment required to perform their work, the hours of such workers, the average mileage of a trip, the mode of travel used by such workers, the safety conditions of such workers, and such other topics as the department deems appropriate.

2. In furtherance of such study, the department may request or issue subpoenas for the production of data, documents, and other information from a third-party food delivery service or third-party courier service

relating to food delivery workers that include, but are not limited to, worker identifiers, information about the times that such workers are available to work for such third-party food delivery service or third-party courier service, the mode of transportation such workers use, how trips are offered or assigned to food delivery workers, the data such service maintains relating to the trips of such workers, the compensation such workers receive from such third-party food delivery service or third-party courier service, any gratuities such workers receive, information relating to both completed and cancelled trips, agreements with or policies covering such workers, contact information of such workers, information relating to the setting of fees paid by food service establishments and consumers, and any other information deemed relevant by the department. In accordance with applicable law and rules and with appropriate notice, a third-party food delivery service or third-party courier service must produce such information to the department in its original format or a machine-readable electronic format as set forth in rules of the department.

3. Based on the results of the study conducted pursuant to paragraph a of this subdivision, and no later than January 1, 2023, the department shall by rule establish a method for determining the minimum payments that must be made to a food delivery worker by a third-party food delivery service or third-party courier service. In establishing such method, the department shall, at minimum, consider the duration and distance of trips, the expenses of operation associated with the typical modes of transportation such workers use, the types of trips, including the number of deliveries made during a trip, the on-call and work hours of food delivery workers, the adequacy of food delivery worker income considered in relation to trip-related expenses, and any other relevant factors, as determined by the department. Any rules promulgated by the department pursuant to this subdivision shall not prevent payments to food delivery workers from being calculated on an hourly or weekly basis, or by any other method, provided that the actual payments made to such workers comply with the minimum payment requirements determined by the department.

b. Any minimum payment determined by the department pursuant to this section shall not include gratuities. A third-party food delivery service or third-party courier service shall not retain any portion of any

gratuity or use gratuities to offset or cover any portion of minimum payments required by this section. A third-party food delivery service shall clearly and conspicuously disclose to food delivery workers which payments constitute gratuities from consumers and which payments constitute compensation paid by the third-party food delivery service.

c. Beginning February 1, 2024 and no later than February 1 of each year thereafter, the department shall announce any update to the minimum payment method established pursuant to this section if it determines an update is warranted or necessary. Any such update shall become effective the following April 1 after it has been announced. If the department determines that an amendment to the minimum payment standard is warranted or necessary, it is hereby authorized to promulgate such amendment by rule.

d. The department shall, no later than September 30, 2024, and two years thereafter, submit to the council and the mayor a report on the minimum payment standard, any amendment to such standard, and the effect of such minimum payment standard on food delivery workers and the food delivery industry.

§ 2. This local law takes effect immediately, provided that the department of consumer and worker protection may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

EL
LS 7933
9/15/21 9:05PM