

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2021**

No. 103

Introduced by Council Members Moya, Gjonaj and Gennaro.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to limiting, without expiration, the fees charged to food service establishments by third-party food delivery services

Be it enacted by the Council as follows:

Section 1. Subchapter 36 of chapter 2 of title 20 of the administrative code of the city of New York, as added by a local law of the city of New York for the year 2021, relating to the licensing of third-party food delivery services, and to 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-A for the year 2020, is amended by adding a new section 20-563.3 to read as follows:

§ 20-563.3 Fee caps. a. It shall be unlawful for a third-party food delivery service to charge a food service establishment a delivery fee that totals more than 15% of the purchase price of each online order.

b. It shall be unlawful for a third-party food delivery service to charge a food service establishment any fee or fees, other than a delivery fee and a transaction fee, for the use of their service that totals more than 5% of the purchase price of each online order.

c. It shall be unlawful for a third-party food delivery service to charge a food service establishment a transaction fee that totals more than 3% of the purchase price of each online

order, provided however that a third-party food delivery service may charge a food service establishment a transaction fee of more than 3% of the purchase price of an online order if: (i) such transaction fee is charged to the food service establishment in the same amount as the charge imposed upon the third-party food delivery service for such online order, and (ii) such third-party food delivery service can provide proof of such charge imposed upon it to both the department and the relevant food service establishment upon request.

d. No later than September 30, 2023, and every two years thereafter, the commissioner shall submit to the speaker of the council and the mayor a report on the fee cap pursuant to this section, which shall include but not be limited to recommendations related to either the maintenance or adjustment of the fee cap as set forth in this section, in consideration of factors from the immediately preceding two years, such as:

- 1. The effect of the cap on third-party food delivery services and food service establishments;*
- 2. Whether the cap affects wages and working conditions for persons who deliver food or beverages for third-party food delivery services;*
- 3. Products that third-party food delivery services offer to food service establishments for listing, processing and marketing;*
- 4. The number of complaints made to the department related to the alleged violations of this subchapter and the number of violations issued under this subchapter;*
- 5. The total amount of penalties imposed as a result of violations of this subchapter; and*
- 6. The amount of restitution recovered on behalf of food service establishments pursuant to this subchapter.*

§ 2. 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 to 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-A 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, before such date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on August 26, 2021 and returned unsigned by the Mayor on September 27, 2021.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 103 of 2021, Council Int. No. 2390 of 2021) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEPHEN LOUIS, Acting Corporation Counsel.