

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

No. 94

Introduced by Council Members Moya and Gjonaj.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to extending the limitation on fees charged to food service establishments by third-party food delivery services

Be it enacted by the Council as follows:

Section 1. Section 20-846 of the administrative code of the city of New York, as added by local law number 52 for the year 2020 and subdivisions b and c as amended by local law number 88 for the year 2020, is amended to read as follows:

§ 20-846 [Fee limits during declared emergencies] *Fees.* 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 other than a delivery fee for the use of their service greater than 5% of the purchase price of each online order, provided that such cap shall not apply to a *transaction fee imposed either by: (i) a credit card issuer or (ii) an internet-based payment system, when such transaction fee* [that] is charged to the third-party food delivery service and is charged in the same amount by the third-party food delivery service to such food service establishment.

c. The requirements of this section apply only [during the period in which a state disaster emergency has been declared by the governor of the state of New York or a state of emergency has been declared by the mayor, such declaration is in effect in the city, and all food service establishments in the city are prohibited from operating at the maximum indoor occupancy and for a period of 90 days thereafter] until *February 17, 2022*.

d. Definitions. For purposes of this section, the following terms have the following meanings:

Credit card. The term “credit card” means any credit card, charge card, courtesy card, debit card, or other device issued by a person to another person which may be used to obtain a cash advance or a loan or credit, or to purchase or lease property or services on the credit of the person issuing the credit card or a person who has agreed with the issuer to pay obligations arising from the use of a credit card issued to another person.

Internet-based payment system. The term “internet-based payment system” means any mobile application or other internet service that facilitates electronic payments.

Transaction fee. The term “transaction fee” means a charge for the processing of a payment for an online order.

§ 2. This local law takes effect immediately, except that if it becomes law after August 17, 2021, it shall be retroactive to and deemed to have been in effect on and after August 17, 2021.

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 July 29, 2021 and returned unsigned by the Mayor on August 30, 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. 94 of 2021, Council Int. No. 2359-A 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.