

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

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**No. 117**

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Introduced by Council Members Rivera, the Public Advocate (Mr. Williams), Menchaca, Chin, Louis, Ayala, Lander, Rosenthal, Van Bramer, Reynoso, Gjonaj, Barron, Brannan, Kallos and Gennaro.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to the agreements between third-party food delivery services and food service establishments and the provision of toilet facility access to 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, is amended by adding new definitions of “food delivery worker” and “toilet facility” in alphabetical order to read as follows:

*Food delivery worker. The term “food delivery worker” means a natural person who is hired or retained as an independent contractor by a food service establishment, as an independent contractor of a third-party food delivery service or as an independent contractor of a third-party courier service, as defined in section 20-1501, to deliver food or beverage from such establishment to a consumer in exchange for compensation.*

*Toilet facility. The term “toilet facility” means a toilet facility on the premises of a food service establishment that is a dedicated facility for its patrons or that is a dedicated facility for its employees to the extent such establishment does not have a dedicated facility for its patrons.*

§ 2. Subdivision b of section 20-563.6 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, is amended to read as follows:

b. An agreement executed in accordance with this section shall *include a provision requiring that a toilet facility is available for the use of food delivery workers lawfully on such establishment’s premises to pick up such establishment’s food or beverage for consumer delivery, except (i) where accessing the toilet facility would require a food delivery worker to walk through such establishment’s kitchen, food preparation or storage area or utensil washing area to access such facility, pursuant to subdivision d of section 81.22 of the health code; (ii) where accessing the toilet facility would create an obvious health and safety risk to the food delivery worker or to the establishment; or (iii) any additional exceptions that the commissioner promulgates by rule. Such agreement shall not include a provision, clause, or covenant that requires a food service establishment to indemnify a third-party food delivery service, any independent contractor acting on behalf of the third-party food delivery service, or any registered agent of the third-party food delivery service, for any damages or harm by an act or omission occurring after the food service establishment’s product leaves the place of business of the food service establishment. To the*

extent an agreement executed in accordance with this section contains such a provision, such provision shall be deemed void and unenforceable.

§ 3. 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 2021, takes effect, provided that subdivision b of section 20-563.6 of such code, as amended by section two of this local law, applies only to agreements executed on and after such date, and 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 September 23, 2021 and returned unsigned by the Mayor on October 25, 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. 117 of 2021, Council Int. No. 2298-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.