



Legislation Text

File #: Int 1775-2019, **Version:** B

Proposed Int. No. 1775-B

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A Local Law to amend the administrative code of the city of New York, in relation to eating utensils

Be it enacted by the Council as follows:

Section 1. Chapter 4 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 13 to read as follows:

Subchapter 13: Eating Utensils Upon Request for Take-away and Delivery

§ 20-699.7 Eating Utensils a. Definitions. For purposes of this chapter:

Condiment packet. The term "condiment packet" means an individual single-service container, sealed by the manufacturer including, but not limited to mustard, ketchup, mayonnaise, soy sauce and hot sauce or an individual single-service container not sealed by the manufacturer, containing mustard, ketchup, mayonnaise, soy sauce and hot sauce.

Eating utensil. The term "eating utensil" means a tool used for eating and drinking, including but not limited to, plates, bowls, knives, forks, spoons, chopsticks, cups, and lids, but does not include stirrers and straws.

Food service establishment. The term "food service establishment" means a place where food is provided for individual portion service directly to the consumer whether such food is provided free of charge or sold, and whether consumption occurs on or off the premises pursuant to subdivisions of section 81.03 of the health code of the city of New York.

Meal delivery service provider. The term “meal delivery service provider” means a courier service provider which delivers meal from a food service establishment to its customer.

Napkin. The term “napkin” means a piece of paper used to wipe the hands or face or protect garments while eating.

Take-away. The term “take-away” means food provided by a food service establishment to be consumed off the premises of a food service establishment.

Third-party application. The term “third-party application” means a website, mobile application or other internet service that allows a customer to order goods from a food service establishment and arranges for the delivery of those goods to such customer.

b. No food service establishment shall provide eating utensils, condiment packets or napkins for take-away customers or with meal delivery service, unless such eating utensils, condiment packets or napkins are requested by such customer. If such food service establishment is filling an order placed on a meal delivery service provider or third party application, such food service establishment may rely on the information provided by such meal delivery service provider or third party application, pursuant to subsection c. In a proceeding to collect a civil penalty pursuant to subdivision (f), it shall be a complete defense for a respondent food service establishment to establish that it relied on the information provided to it by the meal delivery service provider or third party application regarding the customer's choice pursuant to subdivision (c). A copy or screenshot of a communication by the meal delivery service provider or third party application to the food service establishment regarding the customer's choice pursuant to subdivision (c) shall constitute prima facie evidence that the food service establishment relied on the information provided to it by the meal delivery service provider or third party application.

c. Meal delivery service providers and third party applications shall provide options to allow a customer

to request specific eating utensils, condiment packets and napkins upon submission of an order. Such options shall be available for all methods of ordering, including but not limited to phone, internet, or mobile phone application orders. The default selected option shall be that no eating utensils, condiment packets or napkins are requested. No meal delivery service provider or third party application shall provide eating utensils, condiment packets or napkins, unless such eating utensils, condiment packets or napkins are requested by such customer or such eating utensils, condiment packets or napkins are already included in the food already packaged by the food service establishment for delivery.

d. The department shall have the authority to enforce the provisions of this section.

e. The department shall conduct outreach and education to food service establishments and the public to inform them of the provisions of this section, including the creation of signs and materials for food service establishments to display for customers informing them of the affirmative obligation to request items. Such outreach and education shall be conducted within six months after the effective date of this section.

f. Any person who violates the provisions of this section or any rule promulgated pursuant thereto shall be liable for a civil penalty in the amount of \$100 for the first violation, \$200 for the second violation committed on a different day within a period of 12 months, and \$300 for the third and each subsequent violation committed on different days within a period of 12 months, except that the department shall not issue a notice of violation, but shall issue a warning and provide information on the provisions of this section, for any first violation.

g. The department shall study and issue a report to the mayor and the speaker of the council one year after the effective date of this section that shall include, but not be limited to the:

1. Change in the amount of single-use utensils, condiment packets and napkins in the waste stream, both by weight and as a percentage reduction from the amount of single-use utensils, condiment packets and napkins in the waste stream prior to the effective date of this section;

3. Environmental benefits from such waste reduction, including reduced trucking of waste and impacts of reduced landfilling and incineration of waste;

4. Financial impact to the city;

5. Financial impact to food service establishments;

6. Number of violations, disaggregated by first violations, issued by third-party applications, meal delivery service providers, and food service establishments; and

§ 2. This local law takes effect 6 months after it becomes law.

YJY/NKA
LS # 9832
11/24/2020