

The Virgin Islands Consortium

Restaurants That Charge Mandatory Gratuity Are Breaking The Law, DLCA Commissioner Says

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Gratuity should not be mandatory but voluntary. -- *Devin Carrington, DLCA commissioner-designee*

The Department of Licensing and Consumer Affairs (DLCA) Commissioner-designee Devin Carrington has placed on notice restaurants that include mandatory gratuity fees as part of meals purchased by patrons, warning them to either stop the practice altogether or make clear whether or not the gratuity is a part of the service offered.

According to Carrington, the rules and regulations developed by DLCA require that the total price of all consumer goods offered for sale be clearly displayed to the customer at

the point of sale.

The commissioner reminded restaurant owners that gratuity, by definition, is a voluntary tip for services paid by the patron to the restaurant for services rendered; therefore, he said, the patron should not be forced to pay such a charge.

Carrington explained why this has become a problem, saying that if what is being called "gratuity" is actually a payment for services rendered, it should be clearly outlined as such, and not as gratuity. However, the commissioner-designee said if the service being rendered is being called gratuity, it is considered deceptive business practice in contravention, according to Virgin Islands Code Title 12A.

To draw comparison, Carrington said just as it is deceptive and contravention of law to require the consumer to pay a price for an item above the price advertised without first informing the consumer of the total cost involved, it is also deceptive when a mandatory service charge is called a gratuity.

Carrington encouraged customers to know their rights while warning restaurants to visibly display the full cost of all items on their menus, including service charge. He also cautioned that such a service charge should be reasonable and reserved for large groups of customers.