



Substitute House Bill No. 6602

Public Act No. 21-166

AN ACT CONCERNING THIRD-PARTY DELIVERY SERVICES FOR RESTAURANTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2021*) (a) As used in this section:

(1) "Agreement" means a written contractual agreement between a merchant and a third-party delivery service;

(2) "Customer" means a person, business or other entity that places an order for merchant products through the marketplace;

(3) "Likeness" means identifiable symbols attributed and easily identified as belonging to a specific merchant or retailer;

(4) "Marketplace" means a third-party's proprietary online communication platform where customers may view and search the menus of merchants and place an order for merchant products via such third-party's Internet web site or mobile application for delivery by a merchant or by the third-party delivery service, or an independent contractor of the third-party delivery service, to the customer;

(5) "Merchant" means a food service establishment in which food is stored, offered for sale, processed or prepared, and includes the

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transportation of any food; and

(6) "Third-party delivery service" means a company, organization or entity, outside of the operation of a merchant's business, that facilitates delivery or online ordering services to customers.

(b) A third-party delivery service shall not use the likeness, registered trademark or any intellectual property belonging to a merchant to falsely suggest sponsorship or endorsement by or affiliation with a merchant.

(c) A third-party delivery service shall not take orders and arrange for delivery of merchant products through such third-party delivery service's marketplace without obtaining the written consent of a merchant.

(d) No agreement entered into on and after October 1, 2021, between a merchant and a third-party delivery service shall include a provision, clause or covenant that requires a merchant to indemnify a third-party delivery service or any independent contractor or agent of such third-party delivery service for any damages or harm caused by such third-party delivery service or any independent contractor or agent of such third-party delivery service.

(e) Any merchant whose likeness is used by a third-party delivery service or who appears on a third-party delivery service's marketplace, in violation of this section, may bring an action in the Superior Court to recover actual damages or five thousand dollars, whichever is greater. The court may, in its discretion, award punitive damages and other equitable relief it deems appropriate.