

A BILL

25-215

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend, on a temporary basis, the Fair Meals Delivery Act of 2022, to restrict third-party meal delivery services from reducing a restaurant’s placement within a given list of restaurants on a third-party food delivery platform based on the level or percentage of commissions paid, to restrict third-party meal delivery services from reducing a restaurant’s delivery radius based on the level or percentage of commissions paid, to restrict third-party meal delivery services from limiting driver availability based on the level or percentage of commissions paid, to require third-party meal delivery services to disclose, in plain language, all fees, commissions, and charges related to contracted services for covered restaurants, and to make other clarifying changes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this

act may be cited as the “Food Delivery Fees Transparency Temporary Amendment Act of 2023”.

Sec. 2. The Fair Meals Delivery Act of 2022, effective March 10, 2023 (D.C. Law 24-292; D.C. Official Code § 48-651 *et seq.*), is amended as follows:

(a) The long title is amended by striking the word “platform” wherever it appears and inserting the word “service” in its place.

(b) Section 2 (D.C. Official Code § 48-651) is amended as follows:

(1) Paragraph (1) is amended by striking the word “platform” and inserting the word “service” in its place.

(2) Paragraph (2) is amended to read as follows:

30 “(2) “Core delivery service” means a service that lists a restaurant and makes the
31 restaurant discoverable on all third-party meal delivery platforms where a third-party meal
32 delivery service lists restaurants and facilitates or performs the delivery through employees or
33 independent contractors of the third-party meal delivery service of food or beverages from
34 restaurants to customers. The term “core delivery service” does not include any other service that
35 may be provided by a third-party meal delivery service to a restaurant, including advertising or
36 other promotional services, search engine optimization, business consulting, or credit card
37 processing.”.

38 (3) New paragraphs (2A) and (2B) are added to read as follows:

39 “(2A) “Covered restaurant” means a restaurant that elects to receive only core
40 delivery service.

41 “(2B) “Delivery radius” means the circular delivery area from around a restaurant
42 within which customers can search for and order from a restaurant.”.

43 (4) Paragraph (6) is amended by striking the phrase “by, and same-day delivery,
44 and the” and inserting the phrase “by, and provides the” in its place.

45 (5) A new paragraph (6A) is added to read as follows:

46 “(6A) “Third-party meal delivery service” means a person that operates a third-
47 party meal delivery platform.”.

48 (c) Section 3 (D.C. Official Code § 48-652) is amended as follows:

49 (1) The section heading is amended by striking the phrase “meals delivery
50 platforms” and inserting the phrase ”meal delivery services” in its place.

51 (2) Subsection (a) is amended by striking the word “platform” both times it
52 appears and inserting the word “service” in its place.

53 (3) Subsection (b) is amended by striking the word “platform” both times it
54 appears and inserting the word “service” in its place.

55 (4) Subsection (c) is amended as follows:

56 (A) Paragraph (1) is amended by striking the word “platform” and
57 inserting the word “service” in its place.

58 (B) Paragraph (2) is amended by striking the word “platform” and
59 inserting the word “service” in its place.

60 (5) Subsection (d) is amended by striking the phrase “platform that” and inserting
61 the phrase “service that” in its place.

62 (6) New subsections (e), (f), and (g) are added to read as follows:

63 “(e) A third party meal delivery service shall not exclude any restaurant with whom the
64 third party meal delivery service has an agreement from a customer within 4 miles of a
65 restaurant.

66 ~~“(e) A third party meal delivery service shall not reduce the placement of a covered~~
67 ~~restaurant, in any page, list, or search results in which the covered restaurant is included, relative~~
68 ~~to other restaurants, based on the level or percentage of commissions paid; provided, that this~~
69 ~~subsection shall not be construed to restrict a third party meal delivery service’s ability to use~~
70 ~~any method (that does not conflict with the restrictions in this subsection or any other applicable~~

71 law) to determine the displaying and ordering of restaurants on a third-party meal delivery
72 platform, including:

73 ~~—————“(1) Offering preferential listing to restaurants that pay for advertising or other~~
74 ~~promotional services;~~

75 ~~—————“(2) Displaying restaurants based on a particular customer’s search or purchase~~
76 ~~history, proximity to a customer’s location, or other similar factors; and~~

77 ~~—————“(3) Relying on an algorithm to implement paragraph (1) or (2) of this subsection.~~

78 “(f) A third-party meal delivery service shall not reduce the delivery radius of a covered
79 restaurant below 5~~4~~ miles, based on the level or percentage of commissions paid.

80 “(g) A third-party meal delivery service shall not reduce the availability of delivery
81 drivers provided to a covered restaurant, based on the level or percentage of commissions paid;
82 provided, that this subsection shall not be construed to restrict a third-party meal delivery
83 service’s ability to use any method (that does not conflict with the restrictions in this subsection
84 or any other applicable law) to offer expedited or priority driver services to a covered restaurant
85 that pays for such services on a third-party meal delivery platform.”.

86 (d) Section 4 (D.C. Official Code § 48-653) is amended as follows:

87 (1) Strike the phrase “, the third-party meal delivery platform” and insert the
88 phrase “, the third-party meal delivery service” in its place.

89 (2) Strike the phrase “platform (“charges”)” and inserting the phrase “service
90 (“charges”)” in its place.

91 (e) A new section 4a is added to read as follows:

92 “Sec. 4a. Restaurant disclosure requirement.

93 “A third-party meal delivery service shall:

94 “(1) Disclose to a covered restaurant, in plain language, the fees, commissions,
95 and charges associated with the contracted services in the agreement; and

96 “(2) Maintain all contracts with covered restaurants in its records for 3 years after
97 the date the agreement is executed.”.

98 (f) Section 5 (D.C. Official Code § 48-654) is amended as follows:

99 (1) Subsection (a) is amended as follows:

100 (A) Strike the phrase “third-party meal delivery platform” both times it
101 appears and insert the phrase “third-party meal delivery service” in its place.

102 (B) Strike the phrase “platform does” and insert the phrase “third-party
103 meal delivery service does” in its place.

104 (2) Subsection (b) is amended as follows:

105 (A) The lead-in language is amended by striking the word “platform” and
106 inserting the word “service” in its place.

107 (B) Paragraph (2) is amended by striking the word “platform” and
108 inserting the word “service” in its place.

109 (g) Section 6 (D.C. Official Code § 48-655) is amended to read as follows:

110 “Sec. 6. Third-party delivery platform; registration requirement.

111 “A third-party food delivery service operating in the District shall register with the
112 Department of Licensing and Consumer Protection.”.

113 Sec. 3. Fiscal impact statement.

114 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
115 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
116 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

117 Sec. 4. Effective date.

118 (a) This act shall take effect following approval by the Mayor (or in the event of veto by
119 the Mayor, action by the Council to override the veto), a 30-day period of congressional review
120 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
121 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
122 Columbia Register.

123 (b) This act shall expire after 225 days of its having effect.