



Sen. Sara Feigenholtz

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10200HB3205sam003

LRB102 10919 SPS 38324 a

1 AMENDMENT TO HOUSE BILL 3205

2 AMENDMENT NO. _____. Amend House Bill 3205 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Fair
5 Food and Retail Delivery Act.

6 Section 5. Definitions. As used in this Act:

7 "Agreement" means a written agreement between a merchant
8 and a third-party delivery service.

9 "Customer" means the person, business, or other entity
10 that places an order for a merchant's products through a
11 digital network.

12 "Digital network" means a third-party delivery service's
13 Internet site or online-enabled application, software, or
14 system that allows a customer to view, search, and purchase
15 products for delivery by a third-party delivery service to a
16 customer.

1 "Likeness" means identifiable symbols attributed and
2 easily identified as belonging to a specific merchant or
3 retailer.

4 "Merchant" means a restaurant, bar, or other retail
5 entity.

6 "Third-party delivery service" means a company,
7 organization, person, or entity outside of the operation of
8 the merchant's business, not wholly owned by the merchant,
9 that provides delivery services to customers through a digital
10 network.

11 "Third-party delivery service driver" means an individual
12 that provides delivery services on behalf of a third-party
13 delivery service to customers.

14 Section 10. Third-party use of merchant likenesses and
15 delivery. A third-party delivery service may not purchase or
16 use the name, likeness, registered trademark, or intellectual
17 property belonging to a merchant, and may not take or arrange
18 for the pickup or delivery of an order from a merchant through
19 a digital network, without first obtaining written consent
20 from the merchant.

21 Section 15. Indemnity agreements void. An agreement
22 between a merchant and third-party food delivery service for
23 the provision of limited third-party delivery services entered
24 into or renewed after the effective date of this Act may not

1 include a provision that requires a merchant to indemnify a
2 third-party delivery service, an independent contractor of the
3 third-party delivery service, a third-party delivery service
4 driver, or a registered agent of the third-party delivery
5 service for any damages or harm partially or wholly caused by
6 or resulting from the third-party delivery service, an
7 independent contractor of the third-party delivery service, a
8 third-party delivery service driver, or a registered agent of
9 the third-party delivery service.

10 Section 20. Enforcement and penalties. A merchant whose
11 likeness is used, or pickup or delivery is arranged through a
12 third-party delivery service in violation of Section 10, may
13 bring an action in the circuit court in the county in which the
14 merchant conducts business to recover actual damages or up to
15 \$5,000, whichever is greater. The court may, in its
16 discretion, award punitive damages and other equitable relief
17 it deems appropriate."