

SB2904



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2904

Introduced 5/26/2021, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

New Act

Creates the Fair Food Delivery Act. Provides that a third-party delivery service may not purchase or use the name, likeness, registered trademark, or intellectual property belonging to a merchant, and may not take or arrange for the pickup or delivery of an order from a merchant through the marketplace, without first obtaining written consent from the merchant. Provides that an agreement entered into pursuant to the Act may not include a provision that requires a merchant to indemnify a third-party delivery service, an independent contractor of the third-party delivery service, or a registered agent of the third-party delivery service for any damages or harm partially or wholly caused by or resulting from the third-party delivery service, an independent contractor of the third-party delivery service, or a registered agent of the third-party delivery service. Authorizes recovery of actual damages or \$5,000, whichever is greater. Imposes a civil penalty of not more than \$1,000 per violation. Provides that each day a violation occurs constitutes a separate violation. Defines terms.

LRB102 18580 KTG 26883 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 Section 5. Definitions. In this Act:

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

9 "Customer" means the person, business, or other entity
10 that places an order for merchant products through the
11 marketplace.

12 "Likeness" means identifiable symbols attributed and
13 easily identified as belonging to a specific merchant or
14 retailer.

15 "Marketplace" means a third party delivery service's
16 proprietary online communication platform by means of which
17 customers may view, search, and place orders for the products
18 of merchants via the third party delivery service's website or
19 mobile application for delivery by the third party delivery
20 service to the customer.

21 "Merchant" means a restaurant, bar, or other retail
22 entity.

23 "Third-party delivery service" means a company,

1 organization, or entity outside of the operation of the
2 merchant's business that provides limited delivery services to
3 customers.

4 Section 10. Third-party use of merchant likenesses and
5 delivery. A third-party delivery service may not purchase or
6 use the name, likeness, registered trademark, or intellectual
7 property belonging to a merchant, and may not take or arrange
8 for the pickup or delivery of an order from a merchant through
9 the marketplace, without first obtaining written consent from
10 the merchant.

11 Section 15. Indemnity agreements void. An agreement
12 entered into pursuant to this Act may not include a provision
13 that requires a merchant to indemnify a third-party delivery
14 service, an independent contractor of the third-party delivery
15 service, or a registered agent of the third-party delivery
16 service for any damages or harm partially or wholly caused by
17 or resulting from the third-party delivery service, an
18 independent contractor of the third-party delivery service, or
19 a registered agent of the third-party delivery service.

20 Section 20. Enforcement and penalties.

21 (a) A merchant whose likeness is used, or pickup or
22 delivery is arranged through the marketplace, by a third-party
23 delivery service in violation of this Act may bring an action

1 in the circuit court in the county in which the merchant or
2 third-party delivery service conducts business to recover
3 actual damages or \$5,000, whichever is greater. The court may,
4 in its discretion, award punitive damages and other equitable
5 relief it deems appropriate.

6 (b) The court may impose upon a third-party delivery
7 service found to have violated this Act a civil penalty of not
8 more than \$1,000 per violation payable to the State. Each day a
9 violation occurs shall count as a separate violation.