



Sen. Sara Feigenholtz

Filed: 2/18/2022

10200SB2975sam001

LRB102 22173 SPS 36634 a

1 AMENDMENT TO SENATE BILL 2975

2 AMENDMENT NO. _____. Amend Senate Bill 2975 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 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 "Food protection certification entity" means an entity
13 that provides independent, third-party accredited food safety
14 training and certification programs compliant with national
15 standards for safe food delivery issued by the United States
16 Food and Drug Administration, the Centers for Disease Control

1 and Prevention, and the United States Department of
2 Agriculture.

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

6 "Marketplace" means a third-party delivery service's
7 proprietary online communication platform by means of which
8 customers may view, search, and place orders for the products
9 of merchants via the third-party delivery service's website or
10 mobile application for delivery by the third-party delivery
11 service to the customer.

12 "Merchant" means a restaurant, bar, or other retail
13 entity.

14 "Restaurant" means any merchant that is primarily engaged
15 in the sale of ready-to-eat food for immediate consumption.

16 "Primarily engaged" means having sales of ready-to-eat food
17 for immediate consumption comprising at least 51% of total
18 sales, excluding the sale of liquor.

19 "Third-party delivery service" means a company,
20 organization, or entity outside of the operation of the
21 merchant's business, not wholly owned by the merchant, that
22 provides limited delivery services to customers through the
23 marketplace.

24 "Third-party delivery service driver" means an individual
25 outside of the operation of the merchant's business that
26 provides limited delivery services on behalf of a third-party

1 delivery service to customers.

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

9 Section 15. Third-party delivery service driver training
10 requirement.

11 (a) All third-party delivery service drivers that deliver
12 ready-to-eat food from a restaurant to customers shall be
13 required to complete training in basic food delivery safety
14 principles as described in subsection (b) within 30 days after
15 commencing ready-to-eat food delivery services. The training
16 shall be renewed at least every 3 years and the third-party
17 delivery service is responsible for ensuring that every
18 third-party delivery service driver providing delivery
19 services of ready-to-eat food to customers on its behalf has
20 completed the requisite training.

21 (b) Food delivery safety training must be provided by a
22 food protection certification entity and shall, at a minimum,
23 address the following topics:

24 (1) the relationship between time and temperature with

1 respect to foodborne illness during delivery;

2 (2) the relationship between personal hygiene and food
3 delivery safety; and

4 (3) methods of preventing food contamination during
5 pick up, transport, and drop off.

6 Section 20. Indemnity agreements void. An agreement
7 between a merchant and third-party food delivery service for
8 the provision of limited third-party delivery services entered
9 into or renewed after the effective date of this Act may not
10 include a provision that requires a merchant to indemnify a
11 third-party delivery service, an independent contractor of the
12 third-party delivery service, a third-party delivery service
13 driver, or a registered agent of the third-party delivery
14 service for any damages or harm partially or wholly caused by
15 or resulting from the third-party delivery service, an
16 independent contractor of the third-party delivery service, or
17 a registered agent of the third-party delivery service.

18 Section 25. Enforcement and penalties.

19 (a) A merchant whose likeness is used, or pickup or
20 delivery is arranged through the marketplace, by a third-party
21 delivery service in violation of this Act may bring an action
22 in the circuit court in the county in which the merchant or
23 third-party delivery service conducts business to recover
24 actual damages or \$5,000, whichever is greater. The court may,

1 in its discretion, award punitive damages and other equitable
2 relief it deems appropriate.

3 (b) A merchant may bring an action in the circuit court in
4 the county in which the third-party delivery service conducts
5 business against a third-party delivery service that utilizes
6 third-party delivery service drivers who have not completed
7 the requisite training in accordance with Section 15 to
8 recover actual damages or \$5,000, whichever is greater.

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