



Sen. Sara Feigenholtz

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10200SB2975sam002

LRB102 22173 SPS 37338 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 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 "Food protection certification entity" means an entity  
2 that provides independent, third-party accredited food safety  
3 training and certification programs compliant with national  
4 standards for safe food delivery issued by the United States  
5 Food and Drug Administration, the Centers for Disease Control  
6 and Prevention, and the United States Department of  
7 Agriculture.

8 "Likeness" means identifiable symbols attributed and  
9 easily identified as belonging to a specific merchant or  
10 retailer.

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

13 "Primarily engaged" means having sales of ready-to-eat  
14 food for immediate consumption comprising at least 51% of  
15 total sales, excluding sales of liquor.

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

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

23 "Third-party delivery service driver" means an individual  
24 that provides delivery services on behalf of a third-party  
25 delivery service to customers.

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

8           Section 15. Third-party delivery service driver education  
9 requirement.

10           (a) Any third-party delivery service driver that delivers  
11 ready-to-eat food from a restaurant shall participate in  
12 delivery service driver food safety education prior to  
13 engaging in any delivery services. A third-party delivery  
14 service shall ensure all third-party delivery service drivers  
15 that deliver ready-to-eat food from a restaurant have  
16 completed the requisite education within 30 days after the  
17 effective date of this Act and at least once annually.

18           (b) Delivery service driver food safety education may be  
19 provided by a food protection certification entity or a  
20 third-party delivery service and shall include, at a minimum,  
21 proper methods to mitigate the risk of foodborne illness when  
22 transporting food, maintaining proper time and holding  
23 temperatures of food, methods to prevent cross contamination,  
24 and the relationship between food safety and personal and  
25 vehicle hygiene.

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

14           Section 25. Enforcement and penalties. A merchant whose  
15 likeness is used, or pickup or delivery is arranged through a  
16 third-party delivery service in violation of Section 10, may  
17 bring an action in the circuit court in the county in which the  
18 merchant conducts business to recover actual damages or up to  
19 \$5,000, whichever is greater. The court may, in its  
20 discretion, award punitive damages and other equitable relief  
21 it deems appropriate."