



Sen. Sara Feigenholtz

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10200HB3205sam002

LRB102 10919 SPS 38248 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. 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

1 customers may view, search, and place orders for the products
2 of merchants via the third-party delivery service's website or
3 mobile application for delivery by the third-party delivery
4 service to the customer.

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

7 "Third-party delivery service" means a company,
8 organization, or entity outside of the operation of the
9 merchant's business that provides limited delivery services to
10 customers.

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

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

1 independent contractor of the third-party delivery service, or
2 a registered agent of the third-party delivery service.

3 Section 20. Enforcement and penalties.

4 (a) A merchant whose likeness is used, or pickup or
5 delivery is arranged through the marketplace, by a third-party
6 delivery service in violation of this Act may bring an action
7 in the circuit court in the county in which the merchant or
8 third-party delivery service conducts business to recover
9 actual damages or \$5,000, whichever is greater. The court may,
10 in its discretion, award punitive damages and other equitable
11 relief it deems appropriate.

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