

Senate File 2374

H-8356

1 Amend Senate File 2374, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. Page 71, after line 18 by inserting:

4 <DIVISION ____

5 RESTAURANT FOOD DELIVERY

6 Sec. ____ . NEW SECTION. 137G.1 **Definitions.**

7 As used in this chapter, unless the context otherwise
8 requires:

9 1. "*Consent*" means a mutual acknowledgment by a restaurant
10 and a food delivery platform, which may be obtained
11 electronically.

12 2. "*Food delivery platform*" or "*platform*" means a business
13 that acts as a third-party intermediary by taking and arranging
14 for the delivery or pickup of orders from multiple restaurants
15 for consumers, not including delivery or pickup orders placed
16 directly with, and fulfilled by, a restaurant. "*Food delivery*
17 *platform*" does not include websites, mobile applications, or
18 other electronic services that do not post restaurant menus,
19 logos, or pricing information on the platform.

20 3. "*Likeness*" means a mark or trade name.

21 4. "*Mark*" means a trademark or service mark, regardless of
22 whether the trademark or service mark is actually registered
23 with the state or other entity.

24 5. "*Restaurant*" means a business in the state that operates
25 its own permanent food service facilities with commercial
26 cooking equipment on its premises and prepares and offers to
27 sell multiple entrees for consumption on or off the premises.

28 6. "*Trade name*" means a name used by a person or entity to
29 identify a person or entity's vocation.

30 Sec. ____ . NEW SECTION. 137G.2 **Restaurant and food delivery**
31 **platform — requirements — penalties.**

32 1. A food delivery platform shall be prohibited from all of
33 the following:

34 a. Using a restaurant's likeness without the consent of the
35 restaurant owner or the owner's designee in a manner that could

1 be reasonably interpreted to falsely suggest sponsorship or
2 endorsement by the restaurant.

3 *b.* Taking and arranging for the delivery or pickup of an
4 order from a restaurant without the consent of the restaurant
5 owner or the owner's designee.

6 *c.* Intentionally inflating or altering a restaurant's
7 pricing without the consent of the restaurant owner or the
8 owner's designee, except that a food delivery platform may
9 charge additional fees to the consumer if the fees are noted
10 separately to the consumer.

11 *d.* Attempting to charge a restaurant, or expecting the
12 restaurant to pay or absorb any fee, commission, or charge
13 without the consent of the restaurant owner or the owner's
14 designee.

15 2. A food delivery platform shall do all of the following:

16 *a.* Clearly provide to the consumer a mechanism to express
17 concerns regarding an order directly to the food delivery
18 platform.

19 *b.* Remove a restaurant from the food delivery platform's
20 services within ten days of receiving the restaurant's request
21 for removal unless an agreement between the food delivery
22 platform and the restaurant states otherwise.

23 3. An agreement between a food delivery platform and a
24 restaurant to take and arrange for the delivery or pickup of
25 orders shall include all of the following:

26 *a.* Authorization for the food delivery platform to take
27 and arrange for the delivery and pickup of orders from the
28 restaurant.

29 *b.* Clear identification of any fee, commission, or charge
30 that the restaurant will be required to pay or absorb.

31 4. An agreement between a food delivery platform and a
32 restaurant to take and arrange for the delivery or pickup of
33 orders shall not include provisions, clauses, or covenants that
34 require a restaurant to indemnify a food delivery platform,
35 or any employee, independent contractor, or agent of the food

1 delivery platform, for any damages or harm caused by the
2 actions or omissions of the food delivery platform or any
3 employee, independent contractor, or agent of the food delivery
4 platform.

5 5. *a.* A provision of an agreement between a food delivery
6 platform and a restaurant, or the obtaining of consent, that is
7 contrary to this chapter is void and unenforceable.

8 *b.* An aggrieved restaurant or the attorney general may seek
9 judicial enforcement of the requirements of this chapter in an
10 action brought against a food delivery platform in the county
11 in which the violation occurred. The following civil penalties
12 shall be imposed for a violation of this chapter:

13 (1) A one thousand dollar penalty for a first violation.

14 (2) A two thousand five hundred dollar penalty for a second
15 violation.

16 (3) A ten thousand dollar penalty for a third and subsequent
17 violation.

18 6. *a.* The attorney general or a restaurant may, in addition
19 to penalties imposed pursuant to subsection 5, bring an action
20 to enjoin a violation of this chapter. If the court finds a
21 violation of this chapter, the court shall issue an injunction
22 against a food delivery platform and may require the platform
23 to pay to the injured restaurant all profits derived from, or
24 damages resulting from, the wrongful acts and order that the
25 wrongful acts be terminated.

26 *b.* If the court finds that the food delivery platform
27 committed a wrongful act in bad faith in violation of this
28 chapter by not entering into an agreement or obtaining consent,
29 the court, in the court's discretion, shall:

30 (1) Enter a judgment in an amount not to exceed three times
31 the amount of profits and damages.

32 (2) Award reasonable attorney's fees to the restaurant.

33 Sec. ____ . NEW SECTION. 137G.3 Food safety — liability.

34 1. Orders delivered through a food delivery platform shall
35 be transported in a manner that meets all of the following

1 requirements:

2 a. The order shall be maintained at a holding temperature
3 necessary to prevent spoilage.

4 b. All bags or containers in which orders are being
5 transported or delivered from a restaurant to a customer shall
6 be closed or sealed by the restaurant with a tamper-resistant
7 method.

8 c. The individual delivering orders shall not have any
9 passengers, including animals or children when orders for
10 delivery are being transported in the vehicle, except for
11 one adult passenger not engaging in payment for ride-share
12 services.

13 d. Smoking or vaping in the vehicle while orders are in the
14 vehicle shall be prohibited.

15 2. A food delivery platform transporting orders shall be
16 liable for any harm or injury caused by a failure by the food
17 delivery platform to meet the requirements of this chapter.

18 Sec. ____ . APPLICABILITY. This division of this Act applies
19 to agreements entered into between a restaurant and a food
20 delivery platform on or after the effective date of this Act.>

21 2. Title page, line 1, after <Act> by inserting <concerning
22 the regulation of food and beverages,>

23 3. Title page, line 1, by striking <licensing,> and
24 inserting <delivery of restaurant food,>

25 4. Title page, line 2, after <fees> by inserting <and civil
26 penalties>

27 5. Title page, line 2, after <date> by inserting <and
28 applicability>

29 6. By renumbering as necessary.

LUNDGREN of Dubuque