

House Amendment to  
Senate File 2374

S-5124

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

3 1. Page 67, by striking line 20 and inserting <special class  
4 "C", ~~or class "D" liquor control,~~ or>

5 2. Page 68, by striking line 14 and inserting <"C", special  
6 class "C", ~~or class "D" liquor control,~~>

7 3. Page 68, line 31, by striking <~~special class "C",~~> and  
8 inserting <special class "C">

9 4. Page 68, line 32, by striking <class "E",>

10 5. Page 70, line 7, by striking <~~special class "C",~~> and  
11 inserting <special class "C",>

12 6. Page 70, line 8, by striking <class "E",>

13 7. Page 70, line 21, by striking <~~special class "C",~~> and  
14 inserting <special class "C",>

15 8. Page 70, line 22, by striking <class "E",>

16 9. Page 71, after line 18 by inserting:

17 <DIVISION \_\_\_\_

18 RESTAURANT FOOD DELIVERY

19 Sec. \_\_\_\_ . NEW SECTION. 137G.1 **Definitions.**

20 As used in this chapter, unless the context otherwise  
21 requires:

22 1. "*Consent*" means a mutual acknowledgment by a restaurant  
23 and a food delivery platform, which may be obtained  
24 electronically.

25 2. "*Food delivery platform*" or "*platform*" means a business  
26 that acts as a third-party intermediary by taking and arranging  
27 for the delivery or pickup of orders from multiple restaurants  
28 for consumers, not including delivery or pickup orders placed  
29 directly with, and fulfilled by, a restaurant. "*Food delivery*  
30 *platform*" does not include websites, mobile applications, or  
31 other electronic services that do not post restaurant menus,  
32 logos, or pricing information on the platform.

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

34 4. "*Mark*" means a trademark or service mark, regardless of  
35 whether the trademark or service mark is actually registered

1 with the state or other entity.

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

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

8 Sec. \_\_\_\_ . NEW SECTION. 137G.2 **Restaurant and food delivery**  
9 **platform — requirements — penalties.**

10 1. A food delivery platform shall be prohibited from all of  
11 the following:

12 a. Using a restaurant's likeness without the consent of the  
13 restaurant owner or the owner's designee in a manner that could  
14 be reasonably interpreted to falsely suggest sponsorship or  
15 endorsement by the restaurant.

16 b. Taking and arranging for the delivery or pickup of an  
17 order from a restaurant without the consent of the restaurant  
18 owner or the owner's designee.

19 c. Intentionally inflating or altering a restaurant's  
20 pricing without the consent of the restaurant owner or the  
21 owner's designee, except that a food delivery platform may  
22 charge additional fees to the consumer if the fees are noted  
23 separately to the consumer.

24 d. Attempting to charge a restaurant, or expecting the  
25 restaurant to pay or absorb any fee, commission, or charge  
26 without the consent of the restaurant owner or the owner's  
27 designee.

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

29 a. Clearly provide to the consumer a mechanism to express  
30 concerns regarding an order directly to the food delivery  
31 platform.

32 b. Remove a restaurant from the food delivery platform's  
33 services within ten days of receiving the restaurant's request  
34 for removal unless an agreement between the food delivery  
35 platform and the restaurant states otherwise.

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

4 a. Authorization for the food delivery platform to take  
5 and arrange for the delivery and pickup of orders from the  
6 restaurant.

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

9 4. An agreement between a food delivery platform and a  
10 restaurant to take and arrange for the delivery or pickup of  
11 orders shall not include provisions, clauses, or covenants that  
12 require a restaurant to indemnify a food delivery platform,  
13 or any employee, independent contractor, or agent of the food  
14 delivery platform, for any damages or harm caused by the  
15 actions or omissions of the food delivery platform or any  
16 employee, independent contractor, or agent of the food delivery  
17 platform.

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

21 b. An aggrieved restaurant or the attorney general may seek  
22 judicial enforcement of the requirements of this chapter in an  
23 action brought against a food delivery platform in the county  
24 in which the violation occurred. The following civil penalties  
25 shall be imposed for a violation of this chapter:

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

27 (2) A two thousand five hundred dollar penalty for a second  
28 violation.

29 (3) A ten thousand dollar penalty for a third and subsequent  
30 violation.

31 6. a. The attorney general or a restaurant may, in addition  
32 to penalties imposed pursuant to subsection 5, bring an action  
33 to enjoin a violation of this chapter. If the court finds a  
34 violation of this chapter, the court shall issue an injunction  
35 against a food delivery platform and may require the platform

1 to pay to the injured restaurant all profits derived from, or  
2 damages resulting from, the wrongful acts and order that the  
3 wrongful acts be terminated.

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

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

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

11 Sec. \_\_\_\_ . NEW SECTION. 137G.3 Food safety — liability.

12 1. Orders delivered through a food delivery platform shall  
13 be transported in a manner that meets all of the following  
14 requirements:

15 *a.* The order shall be maintained at a holding temperature  
16 necessary to prevent spoilage.

17 *b.* All bags or containers in which orders are being  
18 transported or delivered from a restaurant to a customer shall  
19 be closed or sealed by the restaurant with a tamper-resistant  
20 method.

21 *c.* The individual delivering orders shall not have any  
22 passengers, including animals or children when orders for  
23 delivery are being transported in the vehicle, except for  
24 one adult passenger not engaging in payment for ride-share  
25 services.

26 *d.* Smoking or vaping in the vehicle while orders are in the  
27 vehicle shall be prohibited.

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

31 Sec. \_\_\_\_ . APPLICABILITY. This division of this Act applies  
32 to agreements entered into between a restaurant and a food  
33 delivery platform on or after the effective date of this Act.>

34 10. Title page, line 1, after <Act> by inserting <concerning  
35 the regulation of food and beverages,>

- 1 11. Title page, line 1, by striking <licensing,> and
- 2 inserting <delivery of restaurant food,>
- 3 12. Title page, line 2, after <fees> by inserting <and civil
- 4 penalties>
- 5 13. Title page, line 2, after <date> by inserting <and
- 6 applicability>
- 7 14. By renumbering as necessary.