

House File 2408 - Introduced

HOUSE FILE 2408
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 688)

A BILL FOR

1 An Act relating to the delivery of restaurant food pursuant to
2 a third-party food delivery service.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 137G.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Agreement*" means a written contractual agreement between
5 the restaurant and the third-party food delivery service.

6 2. "*Customer*" means the person, business, or other entity
7 placing an order for restaurant products through a third-party
8 food delivery service's proprietary online communication
9 platform.

10 3. "*Likeness*" means identifiable symbols attributed and
11 easily identified as belonging to a specific restaurant or
12 retailer.

13 4. "*Ready-to-eat food*" or "*food*" means menu items sold by
14 the restaurant.

15 5. "*Restaurant*" means a food establishment defined in
16 section 137.1.

17 6. "*Third-party food delivery service*" or "*food delivery*
18 *service*" means a company, organization, or entity that
19 facilitates the delivery of food from a restaurant to a
20 customer as a result of a single commercial transaction
21 over the internet, whether directly or through a third-party
22 application.

23 Sec. 2. NEW SECTION. 137G.2 Restaurant and food delivery
24 service — agreement.

25 1. A food delivery service shall not arrange for the
26 delivery of an order from a restaurant without first entering
27 into an agreement with the restaurant expressly authorizing the
28 food delivery service to take orders and deliver meals prepared
29 by the restaurant.

30 2. A food delivery service shall not use, without first
31 obtaining a restaurant's consent, a restaurant's likeness,
32 registered trademark, intellectual property, or the name to
33 advertise the third-party food delivery service, unless all of
34 the following apply:

35 a. The use is otherwise permitted under federal or state

1 law.

2 *b.* The use is accompanied by a prominent disclaimer
3 beneath any likeness, registered trademark, other intellectual
4 property, or the name of the restaurant in a font that
5 is at least as large as any other text appearing on the
6 advertisement, internet site, mobile application, or other
7 platform on which the reference to the food delivery service
8 establishment appears:

9 THIS THIRD-PARTY FOOD DELIVERY SERVICE IS NOT AN AUTHORIZED
10 DELIVERY SERVICE FOR THIS RESTAURANT. THIS THIRD-PARTY FOOD
11 DELIVERY SERVICE DOES NOT HAVE AN AGREEMENT TO DELIVER FOR THIS
12 RESTAURANT. PLEASE CONTACT THE RESTAURANT DIRECTLY TO OBTAIN
13 UP-TO-DATE INFORMATION ON MENU ITEMS.

14 3. The disclaimer must be noticeable and of a size and
15 color that sets the disclaimer apart on the platform from other
16 parts of the advertisement, webpage, mobile application, or
17 other platform, such as a contrasting style and color to the
18 surrounding text.

19 Sec. 3. NEW SECTION. 137G.3 Food safety — liability.

20 1. Ready-to-eat food delivered through a third-party food
21 delivery service shall be transported in a manner that meets
22 all of the following requirements:

23 *a.* The interior floor, sides, and top of the food holding
24 area shall be clean and capable of withstanding frequent
25 cleaning.

26 *b.* The food shall be maintained at a holding temperature
27 necessary to prevent spoilage.

28 *c.* All bags or containers in which ready-to-eat foods
29 are being transported or delivered from a restaurant to a
30 customer shall be closed or sealed by the restaurant with a
31 tamper-resistant method prior to the food delivery service
32 taking possession of the ready-to-eat food.

33 *d.* The individual delivering the ready-to-eat food items
34 shall not have any passengers, including animals or children
35 when ready-to-eat food for delivery is being transported in the

1 vehicle.

2 e. Smoking or vaping in the vehicle while ready-to-eat food
3 items are in the vehicle shall be prohibited.

4 2. A third-party food delivery service transporting
5 ready-to-eat food shall be liable for any harm or injury
6 caused by a failure by the food delivery service to meet the
7 requirements of this section.

8 EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 This bill relates to the delivery of restaurant food
12 pursuant to a third-party food delivery service.

13 The bill defines "customer" as a person or business ordering
14 food from a third-party food delivery service. The bill
15 defines "third-party food delivery service" or "food delivery
16 service" as an independent business that delivers food from
17 a restaurant upon a customer placing an order on the food
18 delivery service's online platform.

19 The bill requires a restaurant and a food delivery service
20 to have an agreement authorizing food delivery prior to a food
21 delivery service transporting food on behalf of a restaurant.
22 The bill prohibits food delivery services from using a
23 restaurant's image, likeness, intellectual property, or other
24 identifying material without a restaurant's consent unless
25 otherwise allowed by state or federal law and accompanied by
26 a disclaimer indicating the independence of the food delivery
27 service from the restaurant. The disclaimer must be obvious to
28 the customer.

29 The bill provides that a food delivery service shall
30 transport food in accordance with food safety provisions,
31 including maintaining a food holding area that is cleaned
32 frequently and able to withstand frequent cleaning, maintaining
33 the food for delivery at a holding temperature necessary to
34 prevent spoilage, transporting the food in tamper-resistant
35 and sealed containers, and refraining from carrying passengers

1 or smoking or vaping. The bill provides that a food delivery
2 service that fails to maintain food safety requirements
3 established by the bill shall be liable to the restaurant for
4 related injuries or harm.