HOUSE FILE 2408
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 688)

(As Amended and Passed by the House March 2, 2022)
ALL New Language by the House

A BILL FOR

An Act relating to the delivery of restaurant food pursuant to a food delivery platform, providing civil penalties, and including applicability provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. *a.* A provision of an agreement between a food delivery

platform and a restaurant, or the obtaining of consent, that is contrary to this chapter is void and unenforceable.

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

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

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

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

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

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

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

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

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

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

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

b. All bags or containers in which orders are being transported or delivered from a restaurant to a customer shall

be closed or sealed by the restaurant with a tamper-resistant method.

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

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

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

Sec. 4. APPLICABILITY. This Act applies to agreements entered into between a restaurant and a food delivery platform on or after the effective date of this Act.