



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5513/1
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2021 SENATE BILL 861

January 13, 2022 - Introduced by Senators TESTIN, NASS, WANGGAARD, COWLES and AGARD, cosponsored by Representatives KUGLITSCH, MAGNAFICI, ALLEN, ARMSTRONG, DITTRICH, DOYLE, EDMING, GUNDRUM, HONG, KITCHENS, ORTIZ-VELEZ, J. RODRIGUEZ, SCHRAA, SINICKI, SNODGRASS, SPREITZER, SUBECK, SUMMERFIELD and VRUWINK. Referred to Committee on Labor and Regulatory Reform.

1 **AN ACT** *to create* 100.75 of the statutes; **relating to:** third-party food delivery
2 services and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill establishes requirements for third-party food delivery services that operate digital networks and deliver food purchased from restaurants through digital networks. Specifically, the bill prohibits a third-party food delivery service from listing a restaurant on its digital network or offering a restaurant's food for delivery unless the third-party food delivery service first obtains written consent from the operator of the restaurant. The bill also requires third-party food delivery services to ensure that menus, descriptions, and prices related to a restaurant are accurate.

Under the bill, third-party food delivery services must disclose to restaurants the amount of any commissions, delivery fees, and promotional fees charged, and must also ensure that individuals delivering food for the third-party food delivery service have knowledge of basic food safety principles. Third-party food delivery services must also provide restaurant operators with access to anonymized information identifying various details related to orders involving the restaurant and must allow restaurant operators to view and respond to consumer feedback and reviews.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SENATE BILL 861**SECTION 1**

1 **SECTION 1.** 100.75 of the statutes is created to read:

2 **100.75 Third-party food delivery services. (1) DEFINITIONS.** In this
3 section:

4 (a) “Digital network” means an Internet site or online-enabled application,
5 software, or system that allows a consumer to view and search the menus of
6 restaurants and purchase food from restaurants for delivery.

7 (b) “Likeness” means an identifiable symbol attributed and easily identified as
8 belonging to a particular restaurant.

9 (c) “Restaurant” has the meaning given in s. 97.01 (14g).

10 (d) “Third-party food delivery service” means a person who operates a digital
11 network and delivers food purchased through the digital network to consumers.

12 **(2) REQUIREMENTS.** (a) 1. A 3rd-party food delivery service may not list a
13 restaurant on its digital network or offer a restaurant’s food for delivery unless the
14 3rd-party food delivery service first obtains written consent from the operator of the
15 restaurant to list the restaurant on its digital network; use the restaurant’s name,
16 menu, likeness, and images; and offer the restaurant’s food to consumers.

17 2. A 3rd-party food delivery service shall work with a restaurant listed on its
18 digital network to ensure that the menu, menu descriptions, and prices related to the
19 restaurant are accurate.

20 3. If a 3rd-party food delivery service has not entered into a contract with a
21 restaurant, the 3rd-party food delivery service may not represent that it has a
22 contractual relationship with the restaurant and, if requested by the restaurant,
23 may not list the restaurant on its digital network; use the restaurant’s name, menu,
24 likeness, or images; or offer the restaurant’s food to consumers.

SENATE BILL 861

1 (b) A 3rd-party food delivery service shall disclose to restaurants the amount
2 of any commissions, delivery fees, and promotional fees charged.

3 (c) The terms of a contract between a 3rd-party food delivery service and a
4 restaurant related to fees, costs, marketing practices involving the restaurant or its
5 likeness, insurance, and indemnification shall be clear.

6 (d) 1. An individual delivering food for a 3rd-party food delivery service may
7 not touch food ordered by a consumer.

8 2. A 3rd-party food delivery service shall ensure that individuals delivering
9 food for the 3rd-party delivery service have knowledge of basic food safety principles,
10 including personal hygiene, types of contamination, time and temperature control,
11 cleaning, and sanitizing.

12 (e) 1. A 3rd-party food delivery service shall provide an operator of a restaurant
13 that provides consent under par. (a) 1. with access to anonymized information that
14 identifies all of the following related to orders placed with the 3rd-party food delivery
15 service involving the restaurant:

16 a. The contents of orders.

17 b. The times that orders are placed.

18 c. Whether orders originate from the 3rd-party's application or Internet site.

19 d. Whether orders involve a promotion.

20 e. Average delivery times after orders leave the restaurant.

21 f. Whether orders are from new customers or repeat customers.

22 2. A 3rd-party food delivery service shall allow an operator of a restaurant that
23 provides consent under par. (a) 1. to view and respond to consumer feedback and
24 reviews.

