
Wisconsin Legislative Council

AMENDMENT MEMO



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2021 Assembly Bill 901

**Assembly Substitute
Amendment 1**

2021 ASSEMBLY BILL 901

The bill creates requirements applicable to a “third-party food delivery service,” defined as a person who operates a digital network and delivers food purchased through the digital network to consumers.

The bill provides that a third-party food delivery service must:

- Obtain written consent from a restaurant operator to list the restaurant on its digital network or offer the restaurant’s food for delivery, and work with the restaurant to ensure that menus, descriptions, and prices are accurate. The term “restaurant” generally refers to any building, room or place at which the predominant activity is the preparation, service, or sale of meals.
- Ensure that individuals delivering food have knowledge of basic food safety principles, including personal hygiene, types of contamination, time and temperature control, cleaning, and sanitizing.
- Disclose to restaurants any commissions, delivery fees, and promotional fees charged.
- Provide restaurant operators with access to various anonymized information related to orders involving the restaurant, as specified in the bill.
- Allow restaurant operators to view and respond to consumer feedback and reviews.

The bill also prohibits an individual delivering food for a third-party food delivery service from touching food ordered by a customer.

The Department of Agriculture, Trade, and Consumer Protection (DATCP) is authorized to bring an enforcement action against a third-party food delivery service to recover a civil forfeiture of not more than \$10,000 for each violation of a requirement under the bill.

ASSEMBLY SUBSTITUTE AMENDMENT 1

The substitute amendment changes the definition of “restaurant” to generally refer to any building, room or place where meals are prepared or served or sold. The substitute amendment also defines “consent,” for purposes of the bill, as a mutual acknowledgement by a restaurant and a third-party food delivery service, including a mutual acknowledgement obtained electronically or orally.

The substitute amendment modifies the requirements applicable to a third-party food delivery service under the bill, as follows:

- It removes the requirement to obtain consent prior to listing a restaurant or offering its food for delivery, and to work with it to ensure that menus, descriptions, and prices are accurate. Instead, the substitute amendment requires a third-party food delivery service to provide a publicly accessible process for a restaurant to request to be removed from the digital network. If a restaurant

requests to be removed, the third-party food delivery service must remove it within three business days, and the third-party food delivery service may not list the restaurant, offer its food for delivery, or use its name, address, logo, or menu without consent.

- It retains the requirement to ensure that individuals delivering food have knowledge of basic food safety principles, including personal hygiene and avoiding cross-contamination. However, the references to “time and temperature control, cleaning, and sanitizing” are not included in the substitute amendment.
- It removes the requirement to disclose commissions and fees charged.
- It narrows the scope of the anonymized information required to be made available to include only the contents and timing of orders.
- It removes the requirement to allow views and responses to consumer feedback and reviews.

The substitute amendment also removes the provision that prohibits an individual delivering food for a third-party food delivery service from touching food ordered by a customer. It prohibits a third-party food delivery service from soliciting requests from consumers for a restaurant to be added to the service’s digital network. Also, the substitute amendment provides that the legislation will take effect on the first day of the seventh month beginning after publication.

Under the substitute amendment, delivery and data-sharing requirements would be subject to DATCP’s general enforcement authority to impose fines not to exceed \$200, or imprisonment of not more than six months, or both. With regard to listing and removal requirements, the substitute amendment provides DATCP with specific authority to recover a civil forfeiture of not more than \$1,000 for a first violation, \$5,000 for a second violation, and \$10,000 for each subsequent violation.

BILL HISTORY

Representative Kuglitsch introduced and Senator Testin cosponsored the bill on January 21, 2022, and it was referred to the Assembly Committee on Small Business Development. On February 11, 2022, Representative Kuglitsch offered Assembly Substitute Amendment 1. On February 16, 2022, the Assembly Committee on Small Business Development held a public hearing. On February 22, 2022, the committee recommended adoption of the amendment, and passage of the bill, as amended, on votes of Ayes, 13; Noes, 0.

BL:jal