



State of Wisconsin
2021 - 2022 LEGISLATURE

LRBs0406/1
KP:skw

**SENATE SUBSTITUTE AMENDMENT 2,
TO SENATE BILL 861**

February 23, 2022 - Offered by Senator NASS.

1 **AN ACT** *to amend* 102.07 (8) (a); and *to create* 73.03 (77), 100.75, 102.07 (8) (bs),
2 104.013, 108.02 (12) (cm) and 109.013 of the statutes; **relating to:** third-party
3 food delivery services and providing a penalty.

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

4 **SECTION 1.** 73.03 (77) of the statutes is created to read:

5 73.03 **(77)** To not consider fulfillment of the training requirement under s.
6 100.75 (3) by an individual who makes deliveries for a 3rd-party food delivery
7 service, in determining whether the individual is an employee for the administration
8 of the income and franchise taxes imposed under ch. 71, to the extent that such a
9 determination does not conflict with the federal Internal Revenue Code.

10 **SECTION 2.** 100.75 of the statutes is created to read:

11 **100.75 Third-party food delivery services.** (1) **DEFINITIONS.** In this
12 section:

1 (a) “Consent” means a mutual acknowledgment between a person having
2 authority to act on behalf of a restaurant and a 3rd-party food delivery service that
3 is obtained electronically or in writing.

4 (b) “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 (c) “Restaurant” has the meaning given in s. 125.02 (18).

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

10 **(2) LISTING; REMOVAL.** (a) A 3rd-party food delivery service shall provide a
11 publicly accessible process for a restaurant to request the removal of the restaurant
12 from the digital network of the 3rd-party food delivery service.

13 (b) If a restaurant requests to be removed from the digital network of a
14 3rd-party food delivery service, all of the following apply:

15 1. The 3rd-party food delivery service shall provide to the restaurant a dated
16 receipt of the request.

17 2. The 3rd-party food delivery service shall remove the restaurant from its
18 digital network within 3 business days of receiving the request.

19 3. The 3rd-party food delivery service may not list the restaurant on its digital
20 network, offer the restaurant’s food for delivery, or use the restaurant’s name,
21 address, logo, or menu without consent.

22 (c) A 3rd-party food delivery service may not solicit requests from consumers
23 for a restaurant to be added to the digital network of the 3rd-party food delivery
24 service.

1 **(3) DELIVERY REQUIREMENTS.** A 3rd-party food delivery service shall ensure that
2 individuals delivering food for the 3rd-party food delivery service have knowledge
3 of basic food safety principles, including personal hygiene and avoiding cross
4 contamination.

5 **(4) SHARING OF DATA.** A 3rd-party food delivery service shall provide to an owner
6 or operator of a restaurant listed on its digital network information that identifies
7 all of the following related to orders placed with the 3rd-party food delivery service
8 involving the restaurant:

9 (a) The contents of orders.

10 (b) The times that orders are placed.

11 **(5) PENALTIES.** If a 3rd-party food delivery service violates sub. (2) (b), the
12 department may commence an action against the 3rd-party food delivery service in
13 the name of the state to recover one of the following penalties:

14 (a) For a first violation involving a particular restaurant, a civil forfeiture of
15 \$1,000.

16 (b) For a 2nd violation involving a particular restaurant, a civil forfeiture of
17 \$5,000.

18 (c) For a 3rd or subsequent violation involving a particular restaurant, a civil
19 forfeiture of \$10,000.

20 **SECTION 3.** 102.07 (8) (a) of the statutes is amended to read:

21 102.07 **(8)** (a) Except as provided in pars. (b) and ~~(bm)~~ to (bs), every
22 independent contractor is, for the purpose of this chapter, an employee of any
23 employer under this chapter for whom he or she is performing service in the course
24 of the trade, business, profession or occupation of such employer at the time of the
25 injury.

