

By Senator Torres

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1 A bill to be entitled
2 An act relating to food takeout and delivery service
3 fees; creating s. 501.924, F.S; defining the term
4 "third-party food takeout and delivery service
5 application or Internet website"; limiting service
6 fees charged to restaurants by third-party food
7 takeout and delivery service applications or Internet
8 websites during a declared state of emergency;
9 providing that third-party food takeout and delivery
10 service applications or Internet websites that charge
11 fees in violation of the act commit a deceptive and
12 unfair trade practice, subject to the penalties and
13 remedies of the Florida Deceptive and Unfair Trade
14 Practices Act; providing construction; providing an
15 effective date.

16
17 WHEREAS, the Legislature finds that due to the current
18 state of emergency declared in response to COVID-19, restaurants
19 have been prohibited from offering dine-in service and have been
20 limited to delivery and takeout orders only, which has placed a
21 sudden and severe financial strain on many restaurants, and

22 WHEREAS, COVID-19 has also resulted in an increased use of
23 third-party food takeout and delivery service applications and
24 websites to place orders with restaurants for food takeout or
25 delivery services, and

26 WHEREAS, while some companies offering third-party food
27 takeout and delivery service applications or websites have
28 provided meaningful support to the restaurant community, other
29 such companies have charged restaurants a service fee exceeding

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30 30 percent of the cost of the individual order, thereby
31 compounding the current financial strain on restaurants, and

32 WHEREAS, restaurants that are also small businesses, in
33 particular, may have limited bargaining power to negotiate lower
34 fees, and

35 WHEREAS, the Legislature finds that it is in the public
36 interest to take action to maximize restaurant revenue from
37 takeout and delivery orders to enable restaurants to survive
38 COVID-19, and any future declared state of emergency, and remain
39 sources of employment and community vitality in this state, NOW,
40 THEREFORE,

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42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Section 501.924, Florida Statutes, is created to
45 read:

46 501.924 Food takeout and delivery service fees during
47 declared state of emergency.-

48 (1) As used in this section, the term "third-party food
49 takeout and delivery service application or Internet website"
50 means any online application or website through which a consumer
51 orders food takeout or delivery services from a restaurant.

52 (2) (a) It shall be an unlawful practice and a violation of
53 part II of this chapter for any third-party food takeout and
54 delivery service application or Internet website, during a
55 declared state of emergency of 7 days or longer, to charge a
56 service fee to a restaurant for food takeout or delivery orders
57 that is:

58 1. Greater than 20 percent of the cost of the individual

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59 order; or

60 2. Greater than 10 percent of the cost of the individual
61 order when the order is delivered by an employee of the
62 restaurant or an independent contractor with whom the restaurant
63 has contracted directly.

64 (b) Violations of this subsection are subject to civil
65 penalties and remedies under part II of this chapter.

66 (3) This section:

67 (a) Does not limit the ability of any restaurant to choose
68 to pay a greater percentage of the cost of the individual order
69 to access additional advertising or other products and services
70 offered by any third-party food takeout and delivery service
71 application or Internet website.

72 (b) Supersedes and preempts any county or municipal law,
73 ordinance, resolution, or regulation concerning the relationship
74 between third-party food takeout and delivery service
75 applications or Internet websites and any restaurant utilizing
76 their services.

77 Section 2. This act shall take effect July 1, 2021.