

## CHAPTER 2024-48

### Committee Substitute for Senate Bill No. 676

An act relating to food delivery platforms; creating s. 509.103, F.S.; defining terms; prohibiting food delivery platforms from taking or arranging for the delivery or pickup of orders from a food service establishment without the food service establishment's consent; requiring food delivery platforms to disclose certain information to the consumer; requiring food delivery platforms to provide food service establishments with a method of contacting and responding to consumers by a specified date; providing circumstances under which a food delivery platform must remove a food service establishment's listing on its platform; prohibiting certain actions by food delivery platforms; providing requirements for agreements between food delivery platforms and food service establishments; authorizing the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to issue a notice to cease and desist to a food delivery platform for violations; providing that such notice does not constitute agency action; authorizing the division to enforce such notice and collect attorney fees and costs under certain circumstances; authorizing the division to impose a specified civil penalty; requiring the division to allow a food delivery platform to cure any violation within a specified timeframe before imposing such a civil penalty; preempting regulation of food delivery platforms to the state; providing an appropriation; providing an effective date.

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

Section 1. Section 509.103, Florida Statutes, is created to read:

509.103 Food delivery platforms.—

(1) As used in this section, the term:

(a) “Food delivery platform” means a business that acts as a third-party intermediary for the consumer by taking and arranging for the delivery or pickup of orders from multiple food service establishments. The term does not include:

1. Delivery or pickup orders placed directly with, and fulfilled by, a food service establishment.

2. Websites, mobile applications, or other electronic services that do not post food service establishment menus, logos, or pricing information on their platforms.

3. A search engine that only facilitates an order to be picked up from a food service establishment without accepting a commission or fee for the order or connects a consumer to a food delivery platform's website, mobile

application, or payment and order processing system for the purpose of placing an order.

(b) “Food service establishment” has the same meaning as the term “public food service establishment” as defined in s. 509.013(5).

(c) “Purchase price” means the price, as listed on the menu, for the items in a consumer’s order, excluding fees, tips or gratuities, and taxes.

(2) A food delivery platform may not take and arrange for the delivery or pickup of orders from a food service establishment without the express consent of that food service establishment. Such consent must be in either a written or electronic format.

(3) A food delivery platform shall itemize and clearly disclose to the consumer the cost breakdown of each transaction, including, but not limited to, the following information:

(a) The purchase price of the food and beverage.

(b) Any commission, delivery fee, or promotional fee charged to the consumer by the food delivery platform.

(c) Any tip or gratuity.

(d) Any taxes due on the transaction.

(4) A food delivery platform shall clearly provide to the consumer:

(a) The anticipated date and time of the delivery of the order.

(b) The address to which the order will be delivered.

(c) Confirmation that the order has been successfully delivered or that the delivery cannot be completed.

(d) A mechanism for the consumer to express order concerns directly to the food delivery platform.

(5) By July 1, 2025, a food delivery platform shall provide a food service establishment with:

(a) A method of contacting the consumer while preparing the order, during delivery of the order, and for up to 2 hours after the order is picked up from the food service establishment for delivery to the consumer.

(b) A method to respond to ratings or reviews that are left by the consumer.

(6) A food delivery platform shall remove a food service establishment’s listing on the food delivery platform within 10 days after receiving the food service establishment’s request for removal, unless there is an existing

agreement between the two parties which includes the provisions specified in subsection (8) stating otherwise.

(7) A food delivery platform may not, without an agreement with the food service establishment, intentionally inflate, decrease, or alter a food service establishment's pricing.

(8) An agreement between a food delivery platform and a food service establishment must:

(a) Clearly state all fees, commissions, and charges that the food service establishment is expected to pay or absorb.

(b) Clearly state the policies of the food delivery platform, including, but not limited to, policies related to alcoholic beverages, marketing, menus and pricing, payment, and prohibited conduct.

(c) Include the insurance requirements for delivery partners of the food delivery platform and identify the party responsible for the cost of such insurance.

(d) Identify the party responsible for collecting and remitting applicable sales taxes.

(e) Clearly disclose policies regarding disputed transactions and the procedure for resolving those disputes.

An agreement may not include a provision that requires a food service establishment to indemnify the food delivery platform, or any employee, contractor, or agent of the food delivery platform, for any damage or harm caused by the acts or omissions of the food delivery platform or any of its employees, contractors, or agents.

(9) A food delivery platform may not unreasonably limit the value or number of transactions that may be disputed by a food service establishment with respect to orders, goods, or delivery errors for determining responsibility for errors and reconciling disputed transactions.

(10) If the division has probable cause to believe that a food delivery platform has violated this section or any rule adopted pursuant to this section, the division may issue to the food delivery platform a notice to cease and desist from the violation. The issuance of a notice to cease and desist does not constitute agency action for which a hearing under s. 120.569 or s. 120.57 may be sought. For the purpose of enforcing a cease and desist notice, the division may file a proceeding in the name of the state seeking the issuance of an injunction or a writ of mandamus against any person who violates the notice. If the division is required to seek enforcement of the notice for a penalty pursuant to s. 120.569, it is entitled to collect attorney fees and costs, together with any cost of collection.

(11) The division may impose a civil penalty on a food delivery platform in an amount not to exceed \$1,000 per offense for each violation of this section or of a division rule. For purposes of this subsection, the division may regard as a separate offense each day or portion of a day in which there has been a violation of this section or rules of the division. The division shall issue to the food delivery platform a written notice of any violation and provide the food delivery platform 7 business days in which to cure the violation before imposing a civil penalty under this subsection or commencing any legal proceeding under subsection (10).

(12) Regulation of food delivery platforms is expressly preempted to the state.

Section 2. For the 2024-2025 fiscal year, the sums of \$173,573 in recurring funds and \$13,922 in nonrecurring funds from the Hotel and Restaurant Trust Fund and \$113,749 in recurring funds and \$8,461 in nonrecurring funds from the Administrative Trust Fund are appropriated to the Department of Business and Professional Regulation, and three full-time equivalent positions with a total associated salary rate of 182,692 are authorized, for the purpose of implementing this act.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor April 2, 2024.

Filed in Office Secretary of State April 2, 2024.