

By: Sherman, Sr.

H.B. No. 598

A BILL TO BE ENTITLED

AN ACT

relating to the fees charged by a third-party food delivery service to a food service establishment; authorizing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 114 to read as follows:

CHAPTER 114. FEES CHARGED BY THIRD-PARTY FOOD DELIVERY SERVICES

Sec. 114.0001. DEFINITIONS. In this chapter:

(1) "Delivery fee" means a fee charged to a food service establishment by a third-party food delivery service for providing the service of delivering food or beverages from the food service establishment to a consumer. The term does not include a fee for:

(A) listing or advertising the food service establishment on the third-party food delivery service platform; or

(B) processing an order that is not delivered by the third-party food delivery service.

(2) "Food service establishment" means a place where food is provided for individual portion service directly to the consumer, regardless of whether:

(A) the food is provided free of charge or sold;

(B) consumption of the food occurs on or off the premises; or

(C) the food is provided from a pushcart, stand,

1 or vehicle.

2 (3) "Price of an order" means the total price of the
3 items contained in an order that are listed on the menu of the food
4 service establishment where the order was placed. The term does not
5 include taxes, gratuities, or any other fees that may make up the
6 total cost to the consumer of an order.

7 (4) "Third-party food delivery service" means a
8 website, mobile application, or other Internet-based service that
9 offers or arranges for the same-day delivery or same-day pickup of
10 food or beverages from at least 20 food service establishments that
11 are owned and operated by different persons.

12 Sec. 114.0002. PROHIBITED FEES. A third-party food
13 delivery service may not charge a food service establishment:

14 (1) a delivery fee in an amount that is more than 15
15 percent of the price of an order placed through the third-party food
16 delivery service; or

17 (2) a fee other than a delivery fee in an amount that
18 is more than five percent of the price of an order placed through
19 the third-party food delivery service.

20 Sec. 114.0003. CIVIL PENALTY; INJUNCTIVE RELIEF. (a) A
21 person who violates Section 114.0002 is liable to this state for a
22 civil penalty not to exceed \$1,000 for each violation.

23 (b) The attorney general may bring an action in the name of
24 the state to:

25 (1) recover a civil penalty under this section; or

26 (2) restrain or enjoin the person from violating

27 Section 114.0002.

1 (c) The action may be brought in a district court in:

2 (1) Travis County; or

3 (2) a county in which any part of the violation or
4 threatened violation occurs.

5 (d) A civil penalty collected under this section shall be
6 deposited in the state treasury to the credit of the general revenue
7 fund.

8 SECTION 2. This Act takes effect September 1, 2021.