87R1287 SRA-D

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, or vehicle.

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

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

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

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

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

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

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

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

(2)  restrain or enjoin the person from violating Section 114.0002.

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

(1)  Travis County; or

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

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

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