

# SB0672



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB0672

Introduced 2/25/2021, by Sen. Melinda Bush

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Fair Food Delivery Act. Prohibits a third-party delivery service from using the likeness, registered trademark, or intellectual property belonging to a merchant without obtaining written consent from the merchant for the use of the likeness, trademark, or other intellectual property. Provides that an agreement subject to the Act may not include a provision that requires a merchant to indemnify a third-party delivery service, an independent contractor acting on behalf of the third-party delivery service, or a registered agent of the third-party delivery service for any damages or harm that may occur after the merchant's product leaves the merchant's place of business. Authorizes recovery of actual damages or \$5,000, whichever is greater. Imposes a civil penalty of not more than \$1,000 per violation. Provides that each day a violation occurs constitutes a separate violation. Defines terms. Effective immediately.

LRB102 10211 JLS 15534 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Fair  
5 Food Delivery Act.

6 Section 5. Definitions. In this Act:

7 "Agreement" means a written contractual agreement between  
8 the merchant and a third-party delivery service.

9 "Customer" means the person, business, or other entity  
10 that places an order for merchant products through the  
11 marketplace.

12 "Likeness" means identifiable symbols attributed and  
13 easily identified as belonging to a specific merchant or  
14 retailer.

15 "Marketplace" means a third party's proprietary online  
16 communication platform by means of which customers may view,  
17 search, or place orders for the products of merchants via the  
18 third party's website or mobile application for delivery by  
19 the third party to the customer.

20 "Merchant" means a restaurant or other retail entity.

21 "Third-party delivery service" means a company,  
22 organization, or entity outside of the operation of the  
23 merchant's business that provides limited delivery services to

1 customers.

2 Section 10. Third-party use of merchant trademarks and  
3 likenesses. A third-party delivery service may not use the  
4 likeness, registered trademark, or intellectual property  
5 belonging to a merchant without obtaining written consent from  
6 the merchant for the use of the likeness, trademark, or other  
7 intellectual property.

8 Section 15. Indemnity agreement void. An agreement subject  
9 to this Act may not include a provision that requires a  
10 merchant to indemnify a third-party delivery service, an  
11 independent contractor acting on behalf of the third-party  
12 delivery service, or a registered agent of the third-party  
13 delivery service for any damages or harm that may occur after  
14 the merchant's product leaves the merchant's place of  
15 business.

16 Section 20. Enforcement and penalties.

17 (a) A merchant whose likeness is used by a third-party  
18 delivery service in violation of this Act may bring an action  
19 in the circuit court in the county in which the merchant or  
20 third-party delivery service conducts business to recover  
21 actual damages or \$5,000, whichever is greater. The court may,  
22 in its discretion, award punitive damages and other equitable  
23 relief it deems appropriate.

1           (b) The court may impose upon a third-party delivery  
2 service found to have violated this Act a civil penalty of not  
3 more than \$1,000 per violation payable to the State. Each day a  
4 violation occurs shall count as a separate violation.

5           Section 99. Effective date. This Act takes effect upon  
6 becoming law.