
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1617 Session of
2021

INTRODUCED BY INNAMORATO, PISCIOTTANO, SANCHEZ, SCHLOSSBERG,
BENHAM, CEPHAS, SOLOMON, KENYATTA, FREEMAN, SHUSTERMAN, LEE,
SIMS, BRIGGS, DEASY, N. NELSON AND A. DAVIS, JUNE 14, 2021

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JUNE 14, 2021

AN ACT

1 Amending the act of December 17, 1968 (P.L.1224, No.387),
2 entitled "An act prohibiting unfair methods of competition
3 and unfair or deceptive acts or practices in the conduct of
4 any trade or commerce, giving the Attorney General and
5 District Attorneys certain powers and duties and providing
6 penalties," providing for food delivery platform service
7 fees.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The act of December 17, 1968 (P.L.1224, No.387),
11 known as the Unfair Trade Practices and Consumer Protection Law,
12 is amended by adding a section to read:

13 Section 9.4. Food Delivery Platform Service Fees.--(a) A
14 food delivery platform shall not arrange for the delivery of an
15 online order from a public eating or drinking establishment
16 without first obtaining an agreement with the public eating or
17 drinking establishment that expressly authorizes the food
18 delivery platform to collect an online order and deliver items
19 prepared by the public eating or drinking establishment.

20 (b) It shall be violation of this act for a food delivery

1 platform to charge a public eating or drinking establishment:

2 (1) a delivery fee that totals more than ten percent (10%)
3 of the purchase price of a customer's order; or

4 (2) a fee or fees, other than a delivery fee, for the use of
5 the food delivery platforms' service greater than five percent
6 (5%) of the purchase price of a customer's order.

7 (c) It shall be a violation of this act for a food delivery
8 platform to:

9 (1) Charge a fee to a public eating or drinking
10 establishment beyond the maximum five percent (5%) fee per
11 customer's order and delivery fee collected under subsection (b)
12 (1).

13 (2) Reduce the compensation rate paid to a delivery driver
14 or to garnish the gratuity of a delivery driver as a result of
15 the fee limitations specified in this section.

16 (d) (1) A food delivery platform shall disclose to a
17 customer purchasing food or beverages from a public eating or
18 drinking establishment through the food delivery platform in
19 plain and simple language and in a conspicuous manner any
20 commission, fee or other monetary payment imposed by the food
21 delivery platform on the public eating or drinking establishment
22 in connection with the public eating or drinking establishment
23 utilizing the food delivery platform. The disclosure shall be
24 made before the transaction occurs and when the purchase price
25 is disclosed to the customer.

26 (2) If it is not feasible for the food delivery platform to
27 calculate the total commission actually attributable to the
28 specific transaction, because that information is not available
29 in real time or the commission depends on factors such as sales
30 volume, dollar volume, distance traveled or periodic fixed

1 charges such as an annual fee, the food delivery platform shall
2 disclose a good-faith estimate of the commission, as a dollar
3 amount, a percentage, an average percentage or a range of
4 percentages based on the most recent periodic payout from the
5 food delivery platform to the public eating or drinking
6 establishment. It shall not be required that the food delivery
7 platform specify what period of time is covered by the
8 disclosure.

9 (3) A public eating or drinking establishment may decline to
10 disclose to customers the commission charged by a food delivery
11 platform.

12 (e) As used in this section.

13 "Delivery driver" means an individual who provides the
14 service of transporting the items in a customer's order on a
15 food delivery platform from a public eating or drinking
16 establishment to the address provided by the customer.

17 "Delivery fee" means a fee charged by a food delivery
18 platform for providing a public eating or drinking establishment
19 with a service that has the ability to take a customer's order
20 over the Internet and then deliver the order from a public
21 eating or drinking establishment to the customer. The term does
22 not include a fee that may be charged by a food delivery
23 platform to a public eating or drinking establishment, such as a
24 fee for listing or advertising the public eating or drinking
25 establishment on the food delivery platform, or fee related to
26 processing an online order.

27 "Food delivery platform" means an online entity that acts as
28 an intermediary between a customer and a public eating or
29 drinking establishment to collect the customer's order over the
30 Internet, submit the customer's order to a participating public

1 eating or drinking establishment and arrange for the delivery of
2 the customer's order from the public eating or drinking
3 establishment to the consumer.

4 "Public eating or drinking establishment" means an entity
5 within this Commonwealth that food or drink is served to or
6 provided for the public with or without charge.

7 "Purchase price" means the total price of items contained in
8 an online order that are listed on the menu of the public eating
9 or drinking establishment when the order is placed. The term
10 does not include a tax, gratuity or fee that may make up the
11 total cost of the order to the customer.

12 Section 2. This act shall take effect in 60 days.