

STATE OF NEW YORK

10926

IN ASSEMBLY

August 17, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Abbate) --
read once and referred to the Committee on Consumer Affairs and
Protection

AN ACT to amend the general business law, in relation to third-party
delivery services

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. The general business law is amended by adding a new article
2 39-H to read as follows:

ARTICLE 39-H

THIRD-PARTY DELIVERY SERVICES

Section 900. Definitions.

901. Agreement; indemnity; penalties.

7 § 900. Definitions. As used in this article, the following terms shall
8 have the following meanings:

9 1. "Agreement" means a written contractual agreement between a
10 merchant and a third-party delivery service authorizing the inclusion of
11 the merchant's products on the third-party delivery platform.

12 2. "Consumer" means a person, business, or other entity who places an
13 order for a merchant's products through a third-party delivery platform.

14 3. "Merchant" means a restaurant or other retail entity.

15 4. "Third-party delivery service" means a company, organization, or
16 other entity, other than a merchant, that provides delivery services to
17 consumers.

18 5. "Third-party delivery platform" means the online or mobile platform
19 of the third-party delivery service on which a consumer can view
20 products available for sale and place an order for merchant products.

21 § 901. Agreement; indemnity; penalties. 1. A third-party delivery
22 service shall not advertise, promote, or sell a merchant's products on a
23 third-party delivery platform without a valid agreement with the
24 merchant authorizing the inclusion of the merchant's products on such
25 platform.

26 2. An agreement executed in accordance with this section shall not
27 include a provision, clause, or covenant that requires a merchant to

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD16996-01-0

1 indemnify a third-party delivery service, any independent contractor
2 acting on behalf of the third-party delivery service, or any registered
3 agent of the third-party delivery service, for any damages or harm that
4 may occur after the merchant's product leaves the place of business of
5 the merchant. To the extent an agreement contains such a provision, such
6 provision will be deemed void and unenforceable.

7 3. A merchant included on a third-party delivery platform in violation
8 of this section shall have the right to bring an action in a court of
9 competent jurisdiction for damages, penalties as set forth in this
10 section, and injunctive relief. The prevailing party in any such action
11 shall be entitled to an award of reasonable attorneys' fees.

12 4. Any person that violates any provision of this section shall be
13 subject to a civil penalty of up to one thousand dollars per violation.
14 Each day a merchant included on a third-party delivery platform and each
15 merchant included on a third-party delivery platform shall be considered
16 a separate violation.

17 § 2. This act shall take effect on the thirtieth day after it shall
18 have become a law.