

# STATE OF NEW YORK

1630

2021-2022 Regular Sessions

## IN SENATE

January 14, 2021

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer 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 Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section  
2 391-v to read as follows:

3 § 391-v. Third-party food delivery agreements. 1. For the purposes of  
4 this section, the following terms shall have the following meanings:

5 (a) "Agreement" means a written contractual agreement between a food  
6 service establishment and a third-party food delivery service authoriz-  
7 ing the inclusion of the food service establishment's products on the  
8 third-party food delivery platform.

9 (b) "Food service establishment" means a place where food is provided  
10 for individual portion service directly to the consumer whether such  
11 food is provided free of charge or sold, and whether consumption occurs  
12 on or off the premises or is provided from a pushcart, stand or vehicle.

13 (c) "Third-party food delivery service" means any website, mobile  
14 application or other internet service that offers or arranges for the  
15 sale or delivery of food and beverages prepared by, and the same-day  
16 delivery or same-day pickup of food and beverage from, a food service  
17 establishment located in the state.

18 (d) "Third-party food delivery platform" means the online or mobile  
19 platform of the third-party food delivery service on which a consumer  
20 can view products available for sale and place an order for a food  
21 service establishment's products.

22 2. (a) A third-party food delivery service shall not list, advertise,  
23 promote, or sell a food service establishment's products, or arrange for  
24 the delivery of an order of such products, on a third-party food deliv-

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

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1 ery platform without a valid agreement with the food service establish-  
2 ment authorizing the inclusion of their products on such platform.

3 (b) An agreement executed in accordance with this section shall not  
4 include a provision, clause, or covenant that requires a food service  
5 establishment to indemnify a third-party food delivery service, any  
6 independent contractor acting on behalf of the third-party food delivery  
7 service, or any registered agent of the third-party food delivery  
8 service, for any damages or harm by an act or omission occurring after  
9 the food service establishment's product leaves the place of business of  
10 the food service establishment. To the extent an agreement contains such  
11 a provision, such provision shall be deemed void and unenforceable.

12 (c) A food service establishment included on a third-party food deliv-  
13 ery platform in violation of this section shall have the right to bring  
14 an action in a court of competent jurisdiction for damages, penalties as  
15 set forth in this section, and injunctive relief. Such court, in its  
16 discretion, may also award reasonable court costs and attorneys' fees.

17 (d) Any person that violates any provision of this section shall be  
18 subject to a civil penalty of up to one thousand dollars per violation.  
19 Each day a food service establishment is included on a third-party food  
20 delivery platform and each food service establishment included on a  
21 third-party food delivery platform shall be considered a separate  
22 violation.

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