

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 21-0577.01 Yelana Love x2295

SENATE BILL 21-035

SENATE SPONSORSHIP

Rodriguez,

HOUSE SPONSORSHIP

Bird,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING RESTRICTIONS ON CERTAIN PRACTICES BY THIRD-PARTY**
102 **FOOD DELIVERY SERVICES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits a third-party food delivery service from:

- Offering or arranging for the sale or the same-day delivery or same-day pickup of prepared food or beverages from a retail food establishment without a written agreement with the retail food establishment; or
- Reducing the compensation rate paid to a delivery service

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

driver or withholding gratuities or tips to a retail food establishment, its staff, or any delivery service driver.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 8-4-124 as
3 follows:

4 **8-4-124. Third-party food delivery services - prohibitions -**
5 **penalties - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7 (a) "AGREEMENT" MEANS A WRITTEN CONTRACTUAL AGREEMENT
8 BETWEEN A RETAIL FOOD ESTABLISHMENT AND A THIRD-PARTY FOOD
9 DELIVERY SERVICE AUTHORIZING THE INCLUSION OF THE RETAIL FOOD
10 ESTABLISHMENT'S PRODUCTS ON A THIRD-PARTY FOOD DELIVERY SERVICE
11 PLATFORM.

12 (b) "RETAIL FOOD ESTABLISHMENT" MEANS A RETAIL FOOD
13 ESTABLISHMENT, AS DEFINED IN SECTION 25-4-1602 (14), THAT PAYS AN
14 ANNUAL LICENSE FEE AS REQUIRED BY SECTION 25-4-1607 (1)(a),
15 (1.5)(a)(I), OR (1.5)(b)(I). "RETAIL FOOD ESTABLISHMENT" DOES NOT
16 INCLUDE GROCERY STORES OR CONVENIENCE STORES.

17 (c) "THIRD-PARTY DELIVERY SERVICE PLATFORM" MEANS A
18 THIRD-PARTY FOOD DELIVERY SERVICE'S ONLINE OR MOBILE PLATFORM ON
19 WHICH A CONSUMER CAN VIEW AND ORDER AVAILABLE PRODUCTS.

20 (d) "THIRD-PARTY FOOD DELIVERY SERVICE" MEANS ANY PERSON,
21 COMPANY, OR WEBSITE, MOBILE APPLICATION, OR OTHER INTERNET
22 SERVICE THAT OFFERS OR ARRANGES FOR THE SALE AND SAME-DAY
23 DELIVERY OR SAME-DAY PICKUP OF PREPARED FOOD OR BEVERAGES FROM
24 A RETAIL FOOD ESTABLISHMENT.

25 (2) A THIRD-PARTY FOOD DELIVERY SERVICE SHALL NOT:

1 (a) OFFER OR ARRANGE FOR THE SALE, SAME-DAY DELIVERY, OR
2 SAME-DAY PICKUP OF PREPARED FOOD OR BEVERAGES FROM A RETAIL
3 FOOD ESTABLISHMENT WITHOUT AN AGREEMENT WITH THE RETAIL FOOD
4 ESTABLISHMENT; OR

5 (b) REDUCE THE COMPENSATION RATE PAID TO A DELIVERY
6 SERVICE DRIVER OR WITHHOLD GRATUITIES OR TIPS TO A RETAIL FOOD
7 ESTABLISHMENT, ITS STAFF, OR ANY DELIVERY SERVICE DRIVER.

8 (3) A RETAIL FOOD ESTABLISHMENT INCLUDED ON A THIRD-PARTY
9 DELIVERY SERVICE PLATFORM IN VIOLATION OF SUBSECTION (2)(a) OF THIS
10 SECTION MAY BRING AN ACTION IN A COURT OF COMPETENT JURISDICTION
11 FOR DAMAGES, A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS
12 PER VIOLATION, AND INJUNCTIVE RELIEF. THE PREVAILING PARTY IN AN
13 ACTION BROUGHT PURSUANT TO THIS SUBSECTION (3) IS ENTITLED TO
14 REASONABLE ATTORNEY FEES.

15 **SECTION 2.** In Colorado Revised Statutes, 30-11-129, **amend**
16 (1)(c); and **repeal** (2)(b) as follows:

17 **30-11-129. Third-party food delivery service fee restrictions**
18 **- definitions.** (1) As used in this section, unless the context otherwise
19 requires:

20 (c) "Third-party food delivery service" means any person,
21 company, OR website, mobile application, or other internet service that
22 offers or arranges for the sale and ~~the~~ same-day delivery or same-day
23 pickup of prepared food or beverages from a retail food establishment.

24 (2) During a declared public health disaster emergency, the board
25 of county commissioners of each county may adopt, administer, and
26 enforce ordinances and resolutions, applying to the county's
27 unincorporated area only, that:

1 (b) ~~Restrict the ability of a third-party food delivery service to~~
2 ~~reduce the compensation rate paid to a delivery service driver or withhold~~
3 ~~gratuities or tips to a retail food establishment, its staff, or any delivery~~
4 ~~service driver to offset revenue reductions resulting from any ordinance~~
5 ~~or resolution enacted pursuant to subsection (2)(a) of this section;~~

6 **SECTION 3.** In Colorado Revised Statutes, 31-15-904, **amend**
7 (1)(c); and **repeal** (2)(b) as follows:

8 **31-15-904. Third-party food delivery service fee restrictions**
9 **- definitions.** (1) As used in this section, unless the context otherwise
10 requires:

11 (c) "Third-party food delivery service" means any person,
12 company, OR website, mobile application, or other internet service that
13 offers or arranges for the sale and ~~the~~ same-day delivery or same-day
14 pickup of prepared food or beverages from a retail food establishment.

15 (2) During a declared public health disaster emergency, the
16 governing body of each municipality may adopt, administer, and enforce
17 ordinances and resolutions that:

18 (b) ~~Restrict the ability of a third-party food delivery service to~~
19 ~~reduce the compensation rate paid to a delivery service driver or withhold~~
20 ~~gratuities or tips to a retail food establishment, its staff, or any delivery~~
21 ~~service driver to offset revenue reductions resulting from any ordinance~~
22 ~~or resolution enacted pursuant to subsection (2)(a) of this section;~~

23 **SECTION 4. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly; except
26 that, if a referendum petition is filed pursuant to section 1 (3) of article V
27 of the state constitution against this act or an item, section, or part of this

1 act within such period, then the act, item, section, or part will not take
2 effect unless approved by the people at the general election to be held in
3 November 2022 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.