

SB086\_L.002

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business, Labor, & Technology.

SB21-086 be amended as follows:

1 Amend proposed amendment (SB086\_L.001), page 1, after line 39 insert:

2           "(c) (I) BEFORE THE STATE OR A LOCAL LICENSING AUTHORITY  
3 ISSUES A PERMIT TO A THIRD-PARTY DELIVERY SERVICE PURSUANT TO THIS  
4 SUBSECTION (3), THE THIRD-PARTY DELIVERY SERVICE SHALL SUBMIT A  
5 STAFFING PLAN TO THE DIVISION OF LABOR STANDARDS AND STATISTICS  
6 IN THE DEPARTMENT OF LABOR AND EMPLOYMENT PURSUANT TO RULES  
7 PROMULGATED BY THE DIRECTOR OF THE DIVISION. IN THE STAFFING PLAN,  
8 THE THIRD-PARTY DELIVERY SERVICE SHALL ESTIMATE THE NUMBER OF  
9 EMPLOYEES OR INDEPENDENT CONTRACTORS WHO WILL PERFORM  
10 DELIVERIES PURSUANT TO A PERMIT ISSUED UNDER THIS SUBSECTION (3)  
11 AND SHALL DEMONSTRATE THAT THE EMPLOYEES OR INDEPENDENT  
12 CONTRACTORS ARE PROPERLY CLASSIFIED AS SUCH UNDER ARTICLE 4 OF  
13 TITLE 8. IF THE DIRECTOR DETERMINES THAT THE STAFFING PLAN DOES  
14 NOT REASONABLY ESTIMATE THE NUMBER OF EMPLOYEES OR  
15 INDEPENDENT CONTRACTORS LIKELY TO BE PERFORMING DELIVERIES  
16 UNDER THE PERMIT OR THAT THE THIRD-PARTY DELIVERY SERVICE HAS  
17 FAILED TO ESTABLISH THAT THE EMPLOYEES OR INDEPENDENT  
18 CONTRACTORS WERE PROPERLY CLASSIFIED, THE STATE LICENSING  
19 AUTHORITY SHALL DENY THE PERMIT.

20           (II) ONE-HUNDRED EIGHTY DAYS AFTER RECEIVING A PERMIT  
21 PURSUANT TO THIS SUBSECTION (3), THE THIRD-PARTY DELIVERY SERVICE  
22 SHALL SUBMIT TO THE DIVISION OF LABOR STANDARDS AND STATISTICS AN  
23 UPDATED STAFFING PLAN THAT IDENTIFIES THE EMPLOYEES OR  
24 INDEPENDENT CONTRACTORS WHO MADE DELIVERIES UNDER THE PERMIT  
25 AND ESTABLISHES THAT THOSE EMPLOYEES OR INDEPENDENT  
26 CONTRACTORS WERE PROPERLY CLASSIFIED.

27           (III) A DETERMINATION BY THE DIVISION TO ALLOW A  
28 THIRD-PARTY DELIVERY SERVICE TO SEEK A PERMIT PURSUANT TO THIS  
29 SUBSECTION (3) DOES NOT CONSTITUTE A FINDING THAT EMPLOYEES OR  
30 INDEPENDENT CONTRACTORS PERFORMING WORK FOR THE THIRD-PARTY  
31 DELIVERY SERVICE ARE PROPERLY CLASSIFIED AND IS NOT ADMISSIBLE IN  
32 JUDICIAL OR ADMINISTRATIVE PROCEEDINGS REGARDING THE  
33 CLASSIFICATION OF EMPLOYEES OR INDEPENDENT CONTRACTORS  
34 PERFORMING WORK FOR THE THIRD-PARTY DELIVERY SERVICE."

35 Reletter succeeding paragraph accordingly.

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