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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 299

01/25/2021 Authored by Kotyza-Witthuhn, Koegel and Edelson
The bill was read for the first time and referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act
1.2 relating to consumer protection; limiting third-party food delivery fees; providing
1.3 penalties; proposing coding for new law in Minnesota Statutes, chapter 325F.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. 325F.699 **THIRD-PARTY FOOD DELIVERY FEES; LIMITATION.**

1.6 Subdivision 1. Definitions. (a) For purposes of this section, the terms defined in this
1.7 subdivision have the meanings given.

1.8 (b) "Delivery fee" means a fee charged by a third-party food delivery service to a food
1.9 and beverage establishment for a service that delivers food or beverages from the
1.10 establishment to customers. The term does not include (1) any other fee that may be charged
1.11 by a third-party food delivery service to a food and beverage establishment, including but
1.12 not limited to fees for marketing, listing, or advertising the food and beverage establishment
1.13 on the third-party food delivery service platform, or (2) fees related to processing an online
1.14 order.

1.15 (c) "Food and beverage establishment" or "establishment" means a retail business that
1.16 sells prepared food or beverages to the public.

1.17 (d) "Online order" means an order, including a telephone order, placed by a customer
1.18 through or with the assistance of a platform provided by a third-party food delivery service.

1.19 (e) "Purchase price" means the total price of the items contained in an online order that
1.20 are listed on the menu of the food and beverage establishment where the order is placed.
1.21 Purchase price does not include taxes, gratuities, or other fees that may make up the total
1.22 cost of a customer's online order.

2.1 (f) "Third-party food delivery service" means a platform offered through an  
2.2 online-enabled application, software, website, or other Internet service that offers or arranges  
2.3 for the sale of food and beverages prepared by, delivered by, or picked up from a food and  
2.4 beverage establishment.

2.5 Subd. 2. **Limitation on food delivery fees.** (a) A third-party food delivery service is  
2.6 prohibited from:

2.7 (1) charging a food and beverage establishment a delivery fee that totals more than ten  
2.8 percent of an online order's purchase price;

2.9 (2) charging a food and beverage establishment any fee, other than the delivery fee  
2.10 described in clause (1), to use the third-party delivery service that totals more than five  
2.11 percent of an online order's purchase price;

2.12 (3) charging a customer a purchase price that is higher than the price set by the food and  
2.13 beverage establishment or, if no price is set by the food and beverage establishment, the  
2.14 price listed on the establishment's menu; or

2.15 (4) reducing the compensation rates paid to third-party food delivery service drivers as  
2.16 a result of the limitations on fees instituted by this section.

2.17 (b) A food and beverage establishment may choose, but a third-party food delivery  
2.18 service is prohibited from requiring, an exemption for marketing or advertising the food  
2.19 and beverage establishment on the third-party food delivery service platform from the  
2.20 limitations in paragraph (a).

2.21 Subd. 3. **Enforcement by attorney general.** (a) The attorney general must enforce this  
2.22 section under section 8.31.

2.23 (b) In addition to the remedies otherwise provided by law, a person injured by a violation  
2.24 of subdivision 2 may bring a civil action and recover damages, together with costs and  
2.25 disbursements, including costs of investigation and reasonable attorney fees, and receive  
2.26 other equitable relief as determined by the court.

2.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.