



# House of Representatives

**File No. 692**

General Assembly

January Session, 2021

**(Reprint of File No. 245)**

Substitute House Bill No. 6602  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 14, 2021

**AN ACT CONCERNING THIRD-PARTY DELIVERY SERVICES FOR RESTAURANTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective October 1, 2021*) (a) As used in this section:
- 2 (1) "Agreement" means a written contractual agreement between a  
3 merchant and a third-party delivery service;
- 4 (2) "Customer" means a person, business or other entity that places  
5 an order for merchant products through the marketplace;
- 6 (3) "Likeness" means identifiable symbols attributed and easily  
7 identified as belonging to a specific merchant or retailer;
- 8 (4) "Marketplace" means a third-party's proprietary online  
9 communication platform where customers may view and search the  
10 menus of merchants and place an order for merchant products via such  
11 third-party's Internet web site or mobile application for delivery by a

12 merchant or by the third-party delivery service, or an independent  
13 contractor of the third-party delivery service, to the customer;

14 (5) "Merchant" means a food service establishment in which food is  
15 stored, offered for sale, processed or prepared, and includes the  
16 transportation of any food; and

17 (6) "Third-party delivery service" means a company, organization or  
18 entity, outside of the operation of a merchant's business, that facilitates  
19 delivery or online ordering services to customers.

20 (b) A third-party delivery service shall not use the likeness, registered  
21 trademark or any intellectual property belonging to a merchant to  
22 falsely suggest sponsorship or endorsement by or affiliation with a  
23 merchant.

24 (c) A third-party delivery service shall not take orders and arrange  
25 for delivery of merchant products through such third-party delivery  
26 service's marketplace without obtaining the written consent of a  
27 merchant.

28 (d) No agreement entered into on and after October 1, 2021, between  
29 a merchant and a third-party delivery service shall include a provision,  
30 clause or covenant that requires a merchant to indemnify a third-party  
31 delivery service or any independent contractor or agent of such third-  
32 party delivery service for any damages or harm caused by such third-  
33 party delivery service or any independent contractor or agent of such  
34 third-party delivery service.

35 (e) Any merchant whose likeness is used by a third-party delivery  
36 service or who appears on a third-party delivery service's marketplace,  
37 in violation of this section, may bring an action in the Superior Court to  
38 recover actual damages or five thousand dollars, whichever is greater.  
39 The court may, in its discretion, award punitive damages and other  
40 equitable relief it deems appropriate.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2021</i>	New section
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*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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### **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

### **Explanation**

The bill places restrictions and requirements on third-party delivery services working with food service establishments and results in no fiscal impact to the state.

House "A" removes the requirement that the Department of Consumer Protection hold hearings and impose civil penalties eliminating the potential cost and potential revenue gain.

### **The Out Years**

**State Impact:** None

**Municipal Impact:** None

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**OLR Bill Analysis****sHB 6602 (as amended by House "A")\******AN ACT CONCERNING THIRD-PARTY DELIVERY SERVICES FOR RESTAURANTS.*****SUMMARY**

This bill prohibits third-party food delivery services (e.g., GrubHub, UberEats, and DoorDash) from:

1. falsely suggesting a relationship (i.e., sponsorship, endorsement, or affiliation) with a food service establishment by using the establishment's (a) likeness, (b) registered trademark, or (c) intellectual property, and
2. using their proprietary marketplace (e.g., mobile application) to take orders and arrange for the delivery of a food service establishment's products without first obtaining the establishment's written consent.

The bill allows a food service establishment to bring an action in Superior Court to recover the greater of \$5,000 or actual damages when its likeness is used by a third-party delivery service or appears on a third-party proprietary marketplace in violation of the bill. It allows the court to award punitive damages and equitable relief as it deems appropriate.

Finally, the bill bars contracts between third-party delivery services and food service establishments, entered into on and after October 1, 2021, from including a provision, clause, or covenant requiring an establishment to hold harmless the delivery service or its independent contractors or agents for any damages or harm they cause.

Under the bill, “third-party delivery service” means a company, organization, or entity, outside of a food establishment’s operation that facilitates online ordering or delivery services to customers. A “marketplace” is a third-party’s proprietary online communication platform where customers can (1) view and search food service establishments’ menus and (2) place delivery orders for establishments’ products through the third-party’s website or mobile application that are fulfilled by the establishment, third-party delivery service, or the service's independent contractors.

\*House Amendment "A" (1) removes provisions allowing the Department of Consumer Protection commissioner to impose civil penalties for violating the bill's requirements, (2) makes the contract prohibitions applicable only to contracts entered into on and after October 1, 2021, and (3) makes minor and technical changes.

EFFECTIVE DATE: October 1, 2021

**COMMITTEE ACTION**

Commerce Committee

Joint Favorable Substitute

Yea 23 Nay 0 (03/16/2021)

Appropriations Committee

Joint Favorable

Yea 32 Nay 16 (05/03/2021)