

By: Representatives Zuber, Stamps

To: Judiciary A

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 3

1 AN ACT TO PROVIDE DEFINITIONS RELATING TO THIRD-PARTY  
2 DELIVERY SERVICES THAT ADVERTISE, PROMOTE OR CONVEY ANY  
3 RELATIONSHIP WITH A RESTAURANT OR USE THE NAME, LIKENESS,  
4 TRADEMARK, OR INTELLECTUAL PROPERTY BELONGING TO A RESTAURANT ON  
5 THE THIRD-PARTY DELIVERY PLATFORM; TO PROHIBIT THIRD-PARTY  
6 DELIVERY SERVICES FROM USING THE NAME OR LIKENESS OR ANY  
7 INTELLECTUAL PROPERTY OF A RESTAURANT WITHOUT AN AGREEMENT; TO  
8 PROHIBIT AN INDEMNITY CLAUSE IN SUCH AGREEMENT; TO PROVIDE A RIGHT  
9 TO BRING ACTION RELATING TO THIRD-PARTY DELIVERY SERVICES THAT USE  
10 THE NAME, LIKENESS, TRADEMARK, OR INTELLECTUAL PROPERTY OF A  
11 RESTAURANT IN VIOLATION OF THIS ACT; TO PROVIDE PENALTIES RELATING  
12 TO THIRD-PARTY DELIVERY SERVICES THAT USE THE NAME, LIKENESS,  
13 TRADEMARK, OR INTELLECTUAL PROPERTY OF A RESTAURANT IN VIOLATION  
14 OF THIS ACT; AND FOR RELATED PURPOSES.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

16 **SECTION 1.** As used in this act, the following words and  
17 phrases have the following meanings, unless the context clearly  
18 indicates otherwise:

19 (a) "Agreement" means a written contractual agreement  
20 between the restaurant and the third-party delivery service.

21 (b) "Consumer" means a person, business, or other  
22 entity that places an order for restaurant products through the  
23 third-party delivery platform.



24 (c) "Likeness" means the logo, motto, or any  
25 identifiable symbols attributed and easily identified as belonging  
26 to a specific restaurant.

27 (d) "restaurant" means and includes a restaurant owner,  
28 a restaurant or other retail entity.

29 (e) "Third-party delivery platform" means the online  
30 communication platform of the third-party delivery service on  
31 which a consumer can view and search the menus of restaurants and  
32 place an order for restaurant products through internet-enabled  
33 technology and digital media, including websites and consumer  
34 applications accessible through smart phones and other mobile  
35 devices.

36 (f) "Third-party delivery service" means a company,  
37 organization, or other entity, other than a restaurant, that is  
38 licensed to do business in this state and provides limited  
39 delivery services to a consumer.

40 **SECTION 2.** (1) In the absence of an agreement, a  
41 third-party delivery service shall not advertise, promote, or  
42 otherwise convey any relationship with a restaurant or use the  
43 name, likeness, trademark, or intellectual property belonging to a  
44 restaurant on the third-party delivery platform.

45 (2) An agreement executed in accordance with this act shall  
46 not include a provision, clause, or covenant that requires a  
47 restaurant to indemnify a third-party delivery service, any  
48 independent contractor acting on behalf of the third-party



49 delivery service, or any registered agent of the third-party  
50 delivery service, for any damages or harm that may occur after the  
51 restaurant product leaves the place of business of the restaurant.

52 (3) A restaurant whose name, likeness, trademark, or  
53 intellectual property is used by a third-party delivery service in  
54 violation of this chapter shall have the right to bring an action  
55 in a court of competent jurisdiction.

56 (4) Upon a finding by a court of competent jurisdiction that  
57 a third-party delivery service used the name, likeness, trademark,  
58 or intellectual property of a restaurant in violation of this act,  
59 the court may impose a civil penalty in an amount not to exceed  
60 five thousand dollars (\$5,000.00), or the amount of the  
61 restaurant's actual damages, whichever is greater. The court may,  
62 in its discretion, award attorney fees to the prevailing party.

63 **SECTION 3.** This act shall take effect and be in force from  
64 and after July 1, 2023.

