

By: Representatives Zuber, Stamps

To: Judiciary A

HOUSE BILL NO. 3
(As Passed the House)

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 or a restaurant.

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 other than a restaurant, that is licensed to do
38 business in this state and provides limited delivery services to a
39 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) A restaurant whose name, likeness, trademark, or
46 intellectual property is used by a third-party delivery service in
47 violation of this chapter shall have the right to bring an action
48 in a court of competent jurisdiction.



49 (3) Upon a finding by a court of competent jurisdiction that
50 a third-party delivery service used the name, likeness, trademark,
51 or intellectual property of a restaurant in violation of this act,
52 the court may impose a civil penalty in an amount not to exceed
53 five thousand dollars (\$5,000.00), or the amount of the
54 restaurant's actual damages, whichever is greater. The court may,
55 in its discretion, award attorney fees to the prevailing party.

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

