

By: Senator(s) McMahan

To: Business and Financial
Institutions

SENATE BILL NO. 2218
(As Passed the Senate)

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

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

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

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



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

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

29 (d) "Restaurant" means a restaurant.

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

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

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



47 (2) A restaurant and restaurant owner whose name, likeness,
48 trademark, or intellectual property is used by a third-party
49 delivery service in violation of this chapter shall have the right
50 to bring an action in a court of competent jurisdiction.

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

59 **SECTION 3.** This act shall take effect and be in force from
60 and after July 1, 2023, and shall stand repealed on June 30, 2023.

