

By: Senator(s) McMahan

To: Business and Financial
Institutions

SENATE BILL NO. 2218
(As Sent to Governor)

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 MENU, LOGO OR
4 INTELLECTUAL PROPERTY BELONGING TO A RESTAURANT ON THE THIRD-PARTY
5 DELIVERY PLATFORM; TO PROHIBIT THIRD-PARTY DELIVERY SERVICES FROM
6 USING THE MENU, LOGO OR ANY INTELLECTUAL PROPERTY OF A RESTAURANT
7 WITHOUT AN AGREEMENT; TO PROHIBIT AN INDEMNITY CLAUSE IN SUCH
8 AGREEMENT; TO PROVIDE A RIGHT TO BRING ACTION RELATING TO
9 THIRD-PARTY DELIVERY SERVICES THAT USE THE MENU, LOGO OR
10 INTELLECTUAL PROPERTY OF A RESTAURANT IN VIOLATION OF THIS ACT; TO
11 PROVIDE PENALTIES RELATING TO THIRD-PARTY DELIVERY SERVICES THAT
12 USE THE MENU, LOGO OR INTELLECTUAL PROPERTY OF A RESTAURANT IN
13 VIOLATION OF THIS ACT; AND FOR RELATED PURPOSES.

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

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

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

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



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

27 (d) "Restaurant" means and includes a restaurant or
28 entity with a food permit as listed with the Mississippi
29 Department of Health.

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 smartphones 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 menu, logo or intellectual property belonging to
45 a restaurant and restaurant owner on the third-party delivery
46 platform.

47 (2) A restaurant whose menu, logo or intellectual property
48 is used by a third-party delivery service in violation of this act



49 shall have the right to bring an action in a court of competent
50 jurisdiction.

51 (3) Upon a finding by a court of competent jurisdiction that
52 a third-party delivery service used the menu, logo or intellectual
53 property of a restaurant and restaurant owner in violation of this
54 act, the court may impose a civil penalty in an amount not to
55 exceed Two Thousand Five Hundred Dollars (\$2,500.00), or the
56 amount of the restaurant's actual damages, whichever is greater.

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

