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AB-286 Food delivery: purchase prices and tips. (2021-2022)

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Assembly Bill No. 286

CHAPTER 513

An act to amend Section 22598 of, and to add Sections 22599.1 and 22599.6 to, the Business and Professions Code, relating to business.

[Approved by Governor October 05, 2021. Filed with Secretary of State October 05, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 286, Lorena Gonzalez. Food delivery: purchase prices and tips.

Existing law, the Fair Food Delivery Act of 2020, defines a "food delivery platform" as an online business that acts as an intermediary between consumers and multiple food facilities, as defined, to submit food orders and arrange for the delivery of the order, and prohibits a food delivery platform from arranging for the delivery of an order from a food facility without first obtaining an agreement with the food facility.

This bill would make it unlawful for a food delivery platform to charge a customer any purchase price, as defined, for food or beverage that is higher than the price posted on the food delivery platform's internet website by the food facility at the time of the order. The bill would make it unlawful for a food delivery platform to retain any portion of amounts designated as a tip or gratuity. The bill would require a food delivery platform to pay any tip or gratuity for a delivery order, in its entirety, to the person delivering the food or beverage, and to pay any tip or gratuity for a pickup order, in its entirety, to the food facility. The bill would require a food delivery platform to disclose to the customer and the food facility a cost breakdown of each transaction, including, with certain exceptions, prescribed information. The bill would make the provisions of the act severable.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 22598 of the Business and Professions Code is amended to read:

22598. As used in this chapter:

(a) "Food delivery platform" means an online business that acts as an intermediary between consumers and multiple food facilities to submit food orders from a consumer to a participating food facility, and to arrange for the delivery of the order from the food facility to the consumer.

(b) "Food facility" means a food facility, as defined in Section 113789 of the Health and Safety Code.

(c) "Online order" means an order for food or beverage placed by a customer through or with the assistance of a food delivery platform, including, but not limited to, a telephone order, for delivery.

(d) "Purchase price" means the price, as listed on the menu, for the items contained in an online order. This definition does not include taxes or gratuities that may make up the total amount charged to the customer of an online order.

SEC. 2. Section 22599.1 is added to the Business and Professions Code, to read:

22599.1. (a) It is unlawful for a food delivery platform to do either of the following:

(1) Charge a customer any purchase price for food or beverage that is higher than the price posted on the food delivery platform's internet website by the food facility at the time of the order.

(2) Retain any portion of amounts designated as a tip or gratuity. Any tip or gratuity for a delivery order shall be paid by a food delivery platform, in its entirety, to the person delivering the food or beverage. Any tip or gratuity for a pickup order shall be paid by a food delivery platform, in its entirety, to the food facility.

(b) A food delivery platform shall disclose to the customer and to the food facility an accurate, clearly identified, and itemized cost breakdown of each transaction, including, but not limited to, the following information:

(1) The purchase price of the food and beverage.

(2) A notice, if applicable, that the food delivery platform charges a fee, commission, or cost to the food facility, unless the food facility directs that the food delivery platform disclose to customers the delivery fee charged to the food facility and each fee, commission, or cost charged to the food facility.

(3) Each fee, commission, or cost charged to the customer by the food delivery platform.

(4) Any tip or gratuity.

SEC. 3. Section 22599.6 is added to the Business and Professions Code, to read:

22599.6. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.