

Third Party Delivery Cap Signed into Law – takes effect immediately

SECTION 98. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Covered establishment", a restaurant or other eating or drinking establishment offering same-day food or drink for sale in a single commercial transaction through any third-party delivery service platform, with less than 25 retail locations within the commonwealth.

"COVID-19 emergency", the state of emergency declared by the governor on March 10, 2020 in order to address the outbreak of the 2019 novel coronavirus, also known as COVID-19.

"Customer", an individual using a third-party delivery service platform to place an online order.

"Online order", an order for food or drinks placed by a customer through a third-party delivery service platform provided by a third-party delivery service company for pickup or delivery in the commonwealth.

"Purchase price", the menu price publicly offered on the third-party delivery service platform by a covered establishment. The purchase price shall not include any taxes, gratuities or other fees that may make up the total cost charged to the customer for an online order.

"Third-party delivery service company", a corporation, partnership, sole proprietorship or other entity qualified to do business in the commonwealth that is engaged in facilitating same-day delivery or pickup of food and beverages through a third-party delivery service platform for 20 or more separately owned and operated covered establishments.

"Third-party delivery service platform", any online enabled application, software, website or system offered or utilized by a third-party delivery service company to facilitate the sale of food and beverages prepared by, and the same-day delivery or same-day pickup of food and beverages from, covered establishments.

(b) Notwithstanding any general or special law to the contrary, no third-party delivery service company, from the effective date of this act until the termination of the COVID-19 emergency, shall charge a covered establishment a delivery fee per online order for the use of its services and fees other than a delivery fee that totals more than 15 per cent of the purchase price of the online. No third-party delivery service company shall reduce the compensation rates paid to the delivery service driver, or garnish gratuities, as a result of this section.

(c) This section shall preempt, supersede or nullify any inconsistent, contrary or conflicting local law, ordinance, rule or regulation relating to third-party delivery service platforms and third-party delivery service companies fees, including with respect to any agreements with covered establishments using third-party delivery service companies.

(d) A violation of this section shall be an unfair and deceptive trade practice in violation of chapter 93A of the General Laws.