

ASSEMBLY, No. 3978

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 4, 2020

Sponsored by:

Assemblywoman SERENA DIMASO

District 13 (Monmouth)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblywoman AURA K. DUNN

District 25 (Morris and Somerset)

SYNOPSIS

Limits service fees charged to restaurants by third-party food takeout and delivery applications during certain states of emergency.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/1/2020)

A3978 DIMASO, QUIJANO

2

1 AN ACT limiting certain third-party food takeout and delivery
2 application service fees charged to restaurants and
3 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. The Legislature finds and declares that due to the current
9 state of emergency declared in response to the COVID-19
10 pandemic, restaurants have been prohibited from offering dine-in
11 service and limited to delivery and takeout offerings only, which
12 has placed a sudden and severe financial strain on many restaurants.
13 This emergency has also resulted in an increased use of third-party
14 food takeout and delivery applications to place orders with
15 restaurants for food takeout or delivery. Companies offering third-
16 party takeout and delivery services may charge restaurants a service
17 fee exceeding 30 percent of the individual order price, thereby
18 compounding the current financial strain on restaurants. Restaurants
19 that are also small businesses, in particular, may have limited
20 bargaining power to negotiate lower fees. The Legislature finds
21 that it is in the public interest to take action to maximize restaurant
22 revenue from takeout and delivery orders to enable restaurants to
23 survive this crisis, and any similar future crisis, and remain sources
24 of employment and community vitality in this State.
25

26 2. It shall be an unlawful practice and a violation of
27 P.L.1960, c.39 (C.56:8-1 et seq.) for any third-party food takeout
28 and delivery service application or Internet website, during a state
29 of emergency of seven days or more, to charge a service fee to a
30 restaurant for food take-out or delivery orders that is greater than 15
31 percent of the cost of the individual order. The provisions of this
32 section shall not be construed to limit the ability of any restaurant to
33 choose to pay greater than 15 percent of the cost of the individual
34 order to access additional advertising or other products and services
35 offered by any third-party food takeout and delivery service
36 application or Internet website.

37 As used in this section, "third-party food takeout and delivery
38 service application or Internet website" means any online food
39 ordering and delivery service that allows a consumer to place an
40 order for takeout or delivery from a restaurant.
41

42 3. This act shall take effect immediately.
43

44 STATEMENT
45

46 This bill makes it an unlawful practice for third-party food
47 takeout and delivery applications or websites to charge a service fee
48 to a restaurant that is greater than 15 percent of the cost of the

1 individual order during a state of emergency lasting longer than
2 seven days.

3 Due to the current state of emergency declared in response to the
4 COVID-19 pandemic, restaurants have been prohibited from
5 offering dine-in service and limited to delivery and takeout
6 offerings only, which has placed a sudden and severe financial
7 strain on many restaurants. This emergency has also resulted in an
8 increased use of third-party food takeout and delivery applications
9 and websites, such as DoorDash, Grubhub, and Uber Eats, to place
10 an order with restaurants for takeout or delivery. Companies
11 offering third-party takeout or delivery services may charge
12 restaurants a service fee exceeding 30 percent of the order price,
13 thereby compounding the current financial strain on restaurants.
14 Restaurants that are also small businesses, in particular, may have
15 limited bargaining power to negotiate lower fees. It is in the public
16 interest to take action to maximize restaurant revenue from takeout
17 and delivery orders to enable restaurants to survive this crisis, and
18 any similar future crisis, and remain sources of employment and
19 community vitality in this State.

20 Under the provisions of this bill, it would be an unlawful practice
21 for any third-party food takeout and delivery application or Internet
22 website, during a state of emergency lasting longer than seven days,
23 to charge a service fee to a restaurant that is higher than 15 percent
24 of the cost of the individual order. However, this bill does not limit
25 the ability of any restaurant to pay greater than 15 percent of the
26 cost of the individual order to access additional advertising or other
27 products and services offered by the third-party application or
28 website.

29 The bill defines “third-party food takeout and delivery
30 application or Internet website” to mean any online food order or
31 delivery service that allows a consumer to place an order for takeout
32 or delivery from a restaurant.

33 An unlawful practice under the consumer fraud act,
34 P.L.1960, c.39 (C.56:8-1 et seq.), is punishable by a monetary
35 penalty of not more than \$10,000 for first offense and not more than
36 \$20,000 for any subsequent offense. In addition, a violation can
37 result in cease and desist order issued by the Attorney General, the
38 assessment of punitive damages, and the awarding of treble
39 damages and costs to the injured.