City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

Legislation Text

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Amending Chapter 9-5100 of The Philadelphia Code, entitled "Food Delivery Services," to modify the limitation on fees charged to food service establishments; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 9-5100 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 9-5100. FOOD DELIVERY SERVICES

* * *

§ 9-5104. Fees [During Public Health Emergencies].

(1) *Unless a food service establishment opts for a higher fee consistent with the provisions of subsection (2), below,* [It] *it* shall be unlawful for *a* third-party food delivery [services] *service* to charge *a* food service [establishments] *establishment*

(a) a delivery fee per online order for the use of their services that totals more than ten percent (10%) of the purchase price of each online order.

[(2) It shall be unlawful for third-party food delivery services to charge food service establishments]

(b) any fee or fees other than a delivery fee for the use of their service greater than five percent (5%) of the purchase price of each online order.

(2) Opt-out provision. A food service establishment may opt out of the limit on fees provided in subsection (1) and enter into an agreement with a third-party food delivery service which provides for higher fees if the delivery service meets all the following requirements:

(a) The delivery service provides the food service establishment at least one option for delivery and marketing service by the delivery service that meets the fee limitations provided in subsection (1) that, upon thirty (30) days notice to the delivery service, the food service establishment may revert back to;

(b) The higher fees are charged for additional services beyond those that the third-party food delivery service provides for basic delivery and marketing; and

(c) The delivery service does not refuse to conduct business with or otherwise penalize any food service establishment because such establishment chooses not to opt-out of the fee limitations provided in subsection (1) or chooses to revert back to fee limitations consistent with subsection (2)(a).

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(3) Any fees or other charges from a third-party food delivery service to a food service establishment beyond [such maximum five percent (5%) fee per order, and a delivery fee collected] *those allowed* pursuant to [subsection (1),] *this Section* are unlawful.

(4) It shall be unlawful for third-party food delivery services to reduce the compensation rates paid to the services delivery drivers, or to garnish gratuities, as a result of any fee limitations instituted by this Section.

[(5) The requirements of this Section apply only during a declared public health emergency and for a period of 90 days after the end of a declared emergency.]

(5) The requirements of this Section apply:

(a) immediately during a declared public health emergency that is the subject of a declaration of extraordinary circumstances issued by the Mayor under Section 8-407 of the Charter and for a period of 90 days after the end of such declaration; and

(b) to any agreement between a third-party food delivery service and a food service establishment that is entered into, renewed, extended, or otherwise amended after November 30, 2021.

* * *

§ 9-5105. Penalties.

(1) [Any] *Except as provided in subsection (2), any* violation of this Chapter shall be punishable by a fine of three hundred dollars ($300).

(2) The Department may only issue a warning in response to any first violation of Section 9-5104. Whether or not a warning has been issued by the Department for a prior violation:

(a) Any second violation of Section 9-5104 shall be punishable by a fine of one thousand dollars ($1,000).

(b) Any third or subsequent violations of Section 9-5104 shall be punishable by a fine of two thousand dollars ($2,000).

* * *

§ 9-5106. Severability.

If any provision or application of this Chapter is declared illegal, invalid, or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof and applications not declared illegal, invalid, or inoperative shall remain in full force or effect.

SECTION 2. This Ordinance shall be effective immediately.

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