

First Extraordinary Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 20B-0028.01 Sarah Lozano x2439

HOUSE BILL 20B-1005

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HOUSE SPONSORSHIP

Bird,

SENATE SPONSORSHIP

(None),

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House Committees  
Finance

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING AUTHORIZATION FOR LOCAL GOVERNMENTS TO ENACT  
102 RESTRICTIONS RELATING TO FEES CHARGED BY A THIRD-PARTY  
103 FOOD DELIVERY SERVICE TO A RETAIL FOOD ESTABLISHMENT.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill authorizes counties and municipalities to enact ordinances and resolutions that:

- Limit the amount of the fee that a third-party delivery service may charge to a retail food establishment;
- Restrict the ability of a third-party food delivery service to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

reduce the compensation rate or tips paid to a delivery driver or retail food establishment to offset revenue reductions resulting from a fee limit;

- Require that any fee or commission charged to a retail food establishment be disclosed by the third-party food delivery service to the customer;
- Restrict a third-party food delivery service's ability to service, or disclose any information about, a retail food establishment without the retail food establishment's consent; and
- Impose civil penalties for a violation of any ordinance or resolution enacted.

The bill also immunizes any county or municipality that enacts an ordinance or a resolution as authorized by the bill from liability for economic damage suffered as a result of the ordinance or resolution.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4 (a) The ongoing COVID-19 public health emergency is restricting  
5 retail food establishments from operating freely and at full on-premises  
6 capacity and is increasing the need for third-party food delivery services;

7 (b) These restrictions have caused significant financial harm to  
8 retail food establishments and consumers within the state, and these  
9 challenges are likely to continue in the future;

10 (c) Third-party food delivery services sometimes charge extremely  
11 high fees to retail food establishments that further financial harm to those  
12 establishments and, if the fees are passed through to consumers, deter  
13 consumers from purchasing food from those establishments; and

14 (d) Based on the governor's call for the general assembly to take  
15 action to assist Colorado small businesses, local governments should be  
16 given immediate authority to enact restrictions on these fees to avoid  
17 further financial harm to retail food establishments and consumers within

1 the state.

2 **SECTION 2.** In Colorado Revised Statutes, **add** 30-11-129 as  
3 follows:

4 **30-11-129. Third-party food delivery service fee restrictions**  
5 **- definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT  
6 OTHERWISE REQUIRES:

7 (a) "RETAIL FOOD ESTABLISHMENT" MEANS A RETAIL FOOD  
8 ESTABLISHMENT, AS DEFINED IN SECTION 25-4-1602 (14), THAT PAYS AN  
9 ANNUAL LICENSE FEE AS REQUIRED BY SECTION 25-4-1607 (1)(a),  
10 (1.5)(a)(I), OR (1.5)(b)(I).

11 (b) "THIRD-PARTY FOOD DELIVERY SERVICE" MEANS ANY PERSON,  
12 COMPANY, WEBSITE, MOBILE APPLICATION, OR OTHER INTERNET SERVICE  
13 THAT OFFERS OR ARRANGES FOR THE SALE AND THE SAME-DAY DELIVERY  
14 OR SAME-DAY PICKUP OF PREPARED FOOD OR BEVERAGES FROM A RETAIL  
15 FOOD ESTABLISHMENT.

16 (2) THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY MAY  
17 ADOPT, ADMINISTER, AND ENFORCE ORDINANCES AND RESOLUTIONS,  
18 APPLYING TO THE COUNTY'S UNINCORPORATED AREA ONLY, THAT:

19 (a) LIMIT THE AMOUNT OF THE FEE THAT A THIRD-PARTY FOOD  
20 DELIVERY SERVICE MAY CHARGE TO A RETAIL FOOD ESTABLISHMENT  
21 WITHIN THE COUNTY'S UNINCORPORATED AREA;

22 (b) RESTRICT THE ABILITY OF A THIRD-PARTY FOOD DELIVERY  
23 SERVICE TO REDUCE THE COMPENSATION RATE PAID TO A DELIVERY  
24 SERVICE DRIVER OR WITHHOLD GRATUITIES OR TIPS TO A RETAIL FOOD  
25 ESTABLISHMENT, ITS STAFF, OR ANY DELIVERY SERVICE DRIVER TO OFFSET  
26 REVENUE REDUCTIONS RESULTING FROM ANY ORDINANCE OR RESOLUTION  
27 ENACTED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION;

1 (c) REQUIRES A THIRD-PARTY FOOD DELIVERY SERVICE TO  
2 DISCLOSE TO A CONSUMER USING THE THIRD-PARTY FOOD DELIVERY  
3 SERVICE TO MAKE A PURCHASE FROM A RETAIL FOOD ESTABLISHMENT ANY  
4 COMMISSION, FEE, OR OTHER MONETARY PAYMENT CHARGED BY THE  
5 THIRD-PARTY FOOD DELIVERY SERVICE TO THE RETAIL FOOD  
6 ESTABLISHMENT FOR A PURCHASE FROM THE RETAIL FOOD  
7 ESTABLISHMENT;

8 (d) RESTRICTS A THIRD-PARTY FOOD DELIVERY SERVICE'S ABILITY  
9 TO PERFORM A SERVICE FOR, OR DISCLOSE ANY INFORMATION ABOUT, A  
10 RETAIL FOOD ESTABLISHMENT WITHOUT THE RETAIL FOOD  
11 ESTABLISHMENT'S CONSENT; AND

12 (e) IMPOSES CIVIL PENALTIES FOR A THIRD-PARTY FOOD DELIVERY  
13 SERVICE'S VIOLATION OF ANY ORDINANCE OR RESOLUTION ENACTED  
14 PURSUANT TO THIS SUBSECTION (2).

15 (3) A BOARD OF COUNTY COMMISSIONERS THAT ADOPTS AN  
16 ORDINANCE OR RESOLUTION PURSUANT TO SUBSECTION (2) OF THIS  
17 SECTION IS IMMUNE FROM LIABILITY FOR ALL CLAIMS FOR INJURY  
18 RESULTING FROM ANY ECONOMIC DAMAGE THAT A PARTY MAY INCUR DUE  
19 TO THE ORDINANCE OR RESOLUTION EXCEPT TO THE EXTENT THAT THE  
20 ORDINANCE OR RESOLUTION IS HELD BY A COURT OF COMPETENT  
21 JURISDICTION TO CONSTITUTE A TAKING OF PRIVATE PROPERTY IN  
22 VIOLATION OF THE UNITED STATES OR STATE CONSTITUTION.

23 **SECTION 3.** In Colorado Revised Statutes, **add** 31-15-904 as  
24 follows:

25 **31-15-904. Third-party food delivery service fee restrictions**  
26 **- definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT  
27 OTHERWISE REQUIRES:

1 (a) "RETAIL FOOD ESTABLISHMENT" MEANS A RETAIL FOOD  
2 ESTABLISHMENT , AS DEFINED IN SECTION 25-4-1602 (14), THAT PAYS AN  
3 ANNUAL LICENSE FEE AS REQUIRED BY SECTION 25-4-1607 (1)(a),  
4 (1.5)(a)(I), OR (1.5)(b)(I).

5 (b) "THIRD-PARTY FOOD DELIVERY SERVICE" MEANS ANY PERSON,  
6 COMPANY, WEBSITE, MOBILE APPLICATION, OR OTHER INTERNET SERVICE  
7 THAT OFFERS OR ARRANGES FOR THE SALE AND THE SAME-DAY DELIVERY  
8 OR SAME-DAY PICKUP OF PREPARED FOOD OR BEVERAGES FROM A RETAIL  
9 FOOD ESTABLISHMENT.

10 (2) THE GOVERNING BODY OF EACH MUNICIPALITY MAY ADOPT,  
11 ADMINISTER, AND ENFORCE ORDINANCES AND RESOLUTIONS THAT:

12 (a) LIMIT THE AMOUNT OF THE FEE THAT A THIRD-PARTY FOOD  
13 DELIVERY SERVICE MAY CHARGE TO A RETAIL FOOD ESTABLISHMENT  
14 WITHIN THE MUNICIPALITY;

15 (b) RESTRICT THE ABILITY OF A THIRD-PARTY FOOD DELIVERY  
16 SERVICE TO REDUCE THE COMPENSATION RATE PAID TO A DELIVERY  
17 SERVICE DRIVER OR WITHHOLD GRATUITIES OR TIPS TO A RETAIL FOOD  
18 ESTABLISHMENT, ITS STAFF, OR ANY DELIVERY SERVICE DRIVER TO OFFSET  
19 REVENUE REDUCTIONS RESULTING FROM ANY ORDINANCE OR RESOLUTION  
20 ENACTED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION;

21 (c) REQUIRES A THIRD-PARTY FOOD DELIVERY SERVICE TO  
22 DISCLOSE TO A CONSUMER USING THE THIRD-PARTY FOOD DELIVERY  
23 SERVICE TO MAKE A PURCHASE FROM A RETAIL FOOD ESTABLISHMENT ANY  
24 COMMISSION, FEE, OR OTHER MONETARY PAYMENT CHARGED BY THE  
25 THIRD-PARTY FOOD DELIVERY SERVICE TO THE RETAIL FOOD  
26 ESTABLISHMENT FOR A PURCHASE FROM THE RETAIL FOOD  
27 ESTABLISHMENT;

1           (d) RESTRICTS A THIRD-PARTY FOOD DELIVERY SERVICE'S ABILITY  
2 TO PERFORM A SERVICE FOR, OR DISCLOSE ANY INFORMATION ABOUT, A  
3 RETAIL FOOD ESTABLISHMENT WITHOUT THE RETAIL FOOD  
4 ESTABLISHMENT'S CONSENT; AND

5           (e) IMPOSES CIVIL PENALTIES FOR A THIRD-PARTY FOOD DELIVERY  
6 SERVICE'S VIOLATION OF ANY ORDINANCE OR RESOLUTION ENACTED  
7 PURSUANT TO THIS SUBSECTION (2).

8           (3) A GOVERNING BODY OF A MUNICIPALITY THAT ADOPTS AN  
9 ORDINANCE OR RESOLUTION PURSUANT TO SUBSECTION (2) OF THIS  
10 SECTION IS IMMUNE FROM LIABILITY FOR ALL CLAIMS FOR INJURY  
11 RESULTING FROM ANY ECONOMIC DAMAGE THAT A PARTY MAY INCUR DUE  
12 TO THE ORDINANCE OR RESOLUTION EXCEPT TO THE EXTENT THAT THE  
13 ORDINANCE OR RESOLUTION IS HELD BY A COURT OF COMPETENT  
14 JURISDICTION TO CONSTITUTE A TAKING OF PRIVATE PROPERTY IN  
15 VIOLATION OF THE UNITED STATES OR STATE CONSTITUTION.

16           **SECTION 4. Safety clause.** The general assembly hereby finds,  
17 determines, and declares that this act is necessary for the immediate  
18 preservation of the public peace, health, or safety.