AN ACT

RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS

Introduced By: Representative Robert E. Craven
Date Introduced: February 05, 2021
Referred To: House Corporations

It is enacted by the General Assembly as follows:

SECTION 1. Title 6 of the General Laws entitled "COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS" is hereby amended by adding thereto the following chapter:

CHAPTER 58

THIRD-PARTY DELIVERY SYSTEMS


As used in this chapter:

(1) "Agreement" means a written contractual agreement between the merchant and the third-party delivery service.

(2) "Customer" means the person, business or other entity that places an order for merchant products through the marketplace.

(3) "Likeness" means identifiable symbols attributed and easily identified as belonging to a specific merchant or retailer.

(4) "Marketplace" means the third party's proprietary online communication platform where customers can view and search the menus of merchants and/or place an order for merchant products via the third party's website or mobile application for delivery by the third party to the customer.

(5) "Merchant" means a restaurant or other retail entity.

(6) "Third-party delivery service" means a company, organization, or entity, outside of the operation of the merchant's business that provides limited delivery services to customers.

(1) A third-party delivery service may not use the likeness, registered trademark, or any intellectual property belonging to the merchant without obtaining written consent from the merchant to use the likeness, trademark, or other intellectual property.

(2) To obtain valid consent from the merchant, the third-party delivery service must be registered with the state of Rhode Island to lawfully conduct business within the state.

6-58-3. Indemnity agreement void.

No agreement entered into in accordance with this chapter, shall include a provision, clause or covenant that requires a merchant to indemnify a third-party delivery service, any independent contractor acting on behalf of the third-party delivery service or any registered agent of the third-party delivery service, for any damages or harm that may occur after a product leaves the merchant's place of business.

6-58-4. Enforcement and penalties.

(1) Any merchant whose likeness was used by a third-party delivery service in violation of this chapter may bring an action in the superior court of the county in which the merchant or third-party delivery service is found, or in the superior court of the county as is otherwise provided by law, to recover actual damages or five thousand dollars ($5,000), whichever is greater. The court may in its discretion, award punitive damages and other equitable relief it deems appropriate.

(2) Any third-party delivery service who violates this chapter shall pay to the state a civil penalty of not more than one thousand dollars ($1,000) per violation. Each day a violation occurs shall count as a separate violation.

SECTION 2. This act shall take effect upon passage.
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS

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1 This act would prohibit third-party delivery services from using any likeness or intellectual
   property of a merchant without written consent. This act would require a third-party delivery
   service to register to do business in Rhode Island.

2 This act would take effect upon passage.

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