

A RESOLUTION

25-132

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 2, 2023

To declare the existence of an emergency with respect to the need to amend the Fair Meals Delivery Act of 2022 to prohibit a third-party meal delivery service from excluding any restaurant with whom the third-party meal delivery service has an agreement from a customer within 4 miles of a restaurant, to restrict third-party meal delivery services from reducing a restaurant’s delivery radius below 4 miles based on the level or percentage of commissions paid, to restrict third-party meal delivery services from limiting driver availability based on the level or percentage of commissions paid, to require third-party meal delivery services to disclose, in plain language, all fees, commissions, and charges related to contracted services for covered restaurants, and to make other clarifying changes.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Food Delivery Fees Transparency Emergency Declaration Resolution of 2023”.

Sec. 2. (a) On December 20, 2022, the Council passed the Fair Meals Delivery Act of 2022, effective March 10, 2023 (D.C. Law 24-292; D.C. Official Code § 48-651 *et seq.*) (“Act”).

(b) The Act limits the total fees charged to restaurants by a third-party meal delivery platform to no more than 15% of the purchase price of the online order. This limitation does not apply if a third-party delivery platform offers all restaurants the option to obtain core delivery service for a total fee that is no more than 15% of the purchase price of the online order without requiring the purchase of additional services and notifies all restaurants that have an existing agreement with the third-party meal delivery platform of the option.

(c) Third-party meal delivery services have announced that they have notified all restaurants on their platforms of existing agreements surrounding the current service option, as required by the Act. The companies have informed restaurants that they will begin to pay a higher commission fee— around 30% for local delivery — to receive their current level of service, i.e., the ability to appear in search results of restaurant listings and reach a larger delivery area on their platforms.

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(d) Restaurants that remain at the lower 15% commission fee level will face a shrunken customer base and smaller delivery area because they will not be as visible on the platform. The resulting loss of revenue for many of these restaurants because of these fee hikes will be devastating as they continue to recover from the pandemic. Consumers will also see increased prices, as the higher commission fee rate will force restaurants to raise prices on food. Many District residents have come to rely on third-party food delivery services since the pandemic, and the increased use of those services has greatly benefitted local restaurants.

(e) Action must be taken to ensure that local restaurants and neighborhood businesses are not burdened with excessive fees or certain mileage restrictions by third-party meal delivery services so they can continue to recover to pre-pandemic market conditions and to ensure these third-party meal delivery services comply with the original intent and spirit of the Act.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Food Delivery Fees Transparency Emergency Amendment Act of 2023 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.