

1 A bill to be entitled
2 An act relating to food delivery platforms; creating
3 s. 509.103, F.S.; providing definitions; requiring
4 food delivery platforms to disclose certain
5 information and provide certain notice to the
6 consumer; authorizing the Division of Hotels and
7 Restaurants of the Department of Business and
8 Professional Regulation to issue to a food delivery
9 platform a notice to cease and desist for specified
10 violations; providing that such notice does not
11 constitute agency action; requiring the division to
12 provide a food delivery platform the ability to cure
13 any violation within a specified timeframe before
14 enforcing such notice or imposing a civil penalty;
15 authorizing the division to enforce such notice
16 through specified legal proceedings; authorizing the
17 division to collect attorney fees and costs under
18 certain circumstances; authorizing the division to
19 impose a specified civil penalty; providing
20 construction; authorizing the division to receive and
21 investigate complaints of specified violations;
22 preempting regulation of food service platforms to the
23 state; requiring the division to adopt rules;
24 providing an effective date.
25

26 Be It Enacted by the Legislature of the State of Florida:

27
 28 Section 1. Section 509.103, Florida Statutes, is created
 29 to read:

30 509.103 Food delivery platforms.-

31 (1) As used in this section, the term:

32 (a)1. "Food delivery platform" means a business that acts
 33 as a third-party intermediary by taking and arranging for the
 34 delivery or pickup of orders from multiple food service
 35 establishments for the consumer.

36 2. The term does not include:

37 a. Delivery or pickup orders placed directly with, and
 38 fulfilled by, a food service establishment.

39 b. Websites, mobile applications, or other electronic
 40 services that do not post food service establishment menus,
 41 logos, or pricing information on their platforms.

42 (b) "Food service establishment" has the same meaning as
 43 the term "public food service establishment" as defined in s.
 44 509.013(5).

45 (2) A food delivery platform shall itemize and clearly
 46 disclose the cost breakdown of each transaction to the consumer,
 47 including, but not limited to, the following information:

48 (a) The purchase price of the food and beverage, or any
 49 other item, and clearly indicate if such price exceeds the food
 50 service establishment's pricing.

51 (b) Any commission, delivery fee, or promotional fee
52 charged to the customer by the food delivery platform.

53 (c) Any tip or gratuity.

54 (d) Any taxes due on the transaction.

55 (3) If a food delivery platform does not have a
56 relationship with a food service establishment, the food
57 delivery platform must provide clear and conspicuous notice to
58 the consumer that the food delivery platform does not have any
59 relationship with such food service establishment.

60 (4) If the division has reason to believe a food delivery
61 platform has violated this section or any rules adopted pursuant
62 to this section, the division may issue to the food delivery
63 platform a notice to cease and desist from the violation. The
64 issuance of a notice to cease and desist does not constitute
65 agency action for which a hearing under s. 120.569 or s. 120.57
66 may be sought. The division shall provide the food delivery
67 platform 7 business days in which to cure the violation before
68 imposing a civil penalty under subsection (5) or commencing any
69 legal proceeding under this subsection. For the purpose of
70 enforcing a cease and desist notice, the division may file a
71 proceeding in the name of the state seeking the issuance of an
72 injunction or a writ of mandamus against any person who fails to
73 comply with the notice. If the division is required to seek
74 enforcement of the notice for a penalty pursuant to s. 120.569,
75 it is entitled to collect attorney fees and costs, together with

76 any cost of collection.

77 (5) The division may impose a civil penalty on a food
78 delivery platform in an amount not to exceed \$1,000 per offense
79 for each violation of this section or of a division rule,
80 subject to subsection (4). For purposes of this subsection, the
81 division may regard as a separate offense each day or portion of
82 a day in which there has been a violation of this section or of
83 a division rule.

84 (6) The division may receive and investigate any complaint
85 which alleges that a food delivery platform has violated this
86 section or any rule adopted pursuant to this section.

87 (7) Regulation of food delivery platforms is expressly
88 preempted to the state.

89 (8) The division shall adopt rules to administer this
90 section.

91 Section 2. This act shall take effect upon becoming a law.