2020 -- S 2305

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS

Introduced By: Senators Lombardi, Lombardo, McCaffrey, Lynch Prata, and Ciccone

Date Introduced: February 04, 2020

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1   SECTION 1. Title 6 of the General Laws entitled "COMMERCIAL LAW - GENERAL

2   REGULATORY PROVISIONS" is hereby amended by adding thereto the following chapter:

3   CHAPTER 58

4   THIRD-PARTY DELIVERY SYSTEMS

5   **6-58-1. Definitions.**

6   As used in this chapter:

7   (1) "Agreement" means a written contractual agreement between the merchant and the

8   third-party delivery service.

9   (2) "Customer" means the person, business or other entity that places an order for

10   merchant products through the marketplace.

11   (3) "Likeness" means identifiable symbols attributed and easily identified as belonging to

12   a specific merchant or retailer.

13   (4) "Marketplace" means the third party's proprietary online communication platform

14   where customers can view and search the menus of merchants and/or place an order for merchant

15   products via the third party's website or mobile application for delivery by the third party to the

16   customer.

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

18   (6) "Third-party delivery service" means a company, organization, or entity, outside of

19   the operation of the merchant's business that provides limited delivery services to customers.

1   **6-58-2. Third party use of merchant trademarks and likeness.**

2   (1) A third-party delivery service may not use the likeness, registered trademark, or any

3 intellectual property belonging to the merchant without obtaining written consent from the

4 merchant to use the likeness, trademark, or other intellectual property.

5   (2) To obtain valid consent from the merchant, the third-party delivery service must be

6 registered with the state of Rhode Island to lawfully conduct business within the state.

7   **6-58-3. Indemnity agreement void.**

8   No agreement entered into in accordance with this chapter, shall include a provision,

9 clause or covenant that requires a merchant to indemnify a third-party delivery service, any

10 independent contractor acting on behalf of the third-party delivery service or any registered agent

11 of the third-party delivery service, for any damages or harm that may occur after a product leaves

12 the merchant's place of business.

13   **6-58-4. Enforcement and penalties.**

14   (1) Any merchant whose likeness was used by a third-party delivery service in violation

15 of this chapter may bring an action in the superior court of the county in which the merchant or

16 third-party delivery service is found, or in the superior court of the county as is otherwise

17 provided by law, to recover actual damages or five thousand dollars ($5,000), whichever is

18 greater. The court may in its discretion, award punitive damages and other equitable relief it

19 deems appropriate.

20   (2) Any third-party delivery service who violates this chapter shall pay to the state a civil

21 penalty of not more than one thousand dollars ($1,000) per violation. Each day a violation occurs

22 shall count as a separate violation.

23   SECTION 2. This act shall take effect upon passage.

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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

2   intellectual property of a merchant without written consent. This act would require a third-party

3   delivery service to register to do business in Rhode Island.

4   This act would take effect upon passage.

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