

[First Reprint]

**SENATE, No. 2437**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED MAY 7, 2020

**Sponsored by:**

**Senator VIN GOPAL**

**District 11 (Monmouth)**

**Senator JOSEPH P. CRYAN**

**District 20 (Union)**

**Assemblywoman SERENA DIMASO**

**District 13 (Monmouth)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblywoman AURA K. DUNN**

**District 25 (Morris and Somerset)**

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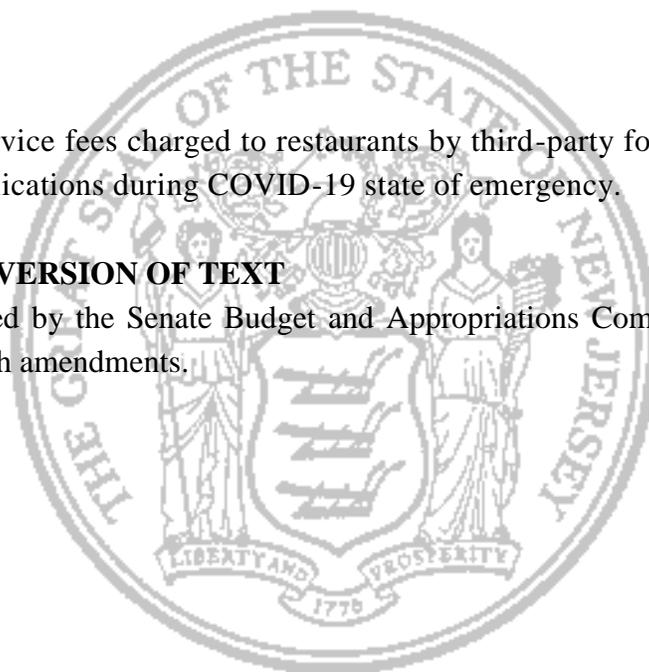
**Senator Addiego, Assemblymen Mejia, Mazzeo, Freiman and  
Assemblywoman Jimenez**

**SYNOPSIS**

Limits service fees charged to restaurants by third-party food takeout and delivery applications during COVID-19 state of emergency.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on May 11, 2020, with amendments.



**(Sponsorship Updated As Of: 6/18/2020)**

1 AN ACT limiting certain third-party food takeout and delivery  
2 application service fees charged to restaurants and  
3 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. The Legislature finds and declares that due to the current  
9 state of emergency declared in response to the COVID-19  
10 pandemic, restaurants have been prohibited from offering dine-in  
11 service and limited to delivery and takeout offerings only, which  
12 has placed a sudden and severe financial strain on many restaurants.  
13 This emergency has also resulted in an increased use of third-party  
14 food takeout and delivery service applications to place orders with  
15 restaurants for food takeout or delivery. While some companies  
16 have provided meaningful support to the restaurant community,  
17 other companies offering third-party food takeout and delivery  
18 services may charge restaurants a service fee exceeding 30 percent  
19 of the individual order price, thereby compounding the current  
20 financial strain on restaurants. Restaurants that are also small  
21 businesses, in particular, may have limited bargaining power to  
22 negotiate lower fees. The Legislature finds that it is in the public  
23 interest to take action to maximize restaurant revenue from takeout  
24 and delivery orders to enable restaurants to survive this crisis<sup>1</sup>, and  
25 any similar future crisis,<sup>1</sup> and remain sources of employment and  
26 community vitality in this State.  
27

28 2. a. It shall be an unlawful practice and a violation of  
29 P.L.1960, c.39 (C.56:8-1 et seq.) for any third-party food takeout  
30 and delivery service application or Internet website, during <sup>1</sup>[a]  
31 and until the first day of the third month following any<sup>1</sup> state of  
32 emergency <sup>1</sup>[of seven days or more] declared by the Governor in  
33 response to COVID-19 that restricts restaurant dine-in service to  
34 less than 25 percent of the maximum capacity allowed by law<sup>1</sup>, to  
35 charge a service fee to a restaurant for food take-out or delivery  
36 orders that is:

37 (1) greater than 20 percent of the cost of the individual order; or  
38 (2) greater than 10 percent of the cost of the individual order,  
39 when the order is delivered by an employee of the restaurant or an  
40 independent contractor with whom the restaurant has contracted  
41 directly.  
42

43 The provisions of this section shall not be construed to limit the  
44 ability of any restaurant to choose to pay <sup>1</sup>up to 25 percent<sup>1</sup> of the  
cost of the individual order to access additional advertising or other

**EXPLANATION** – Matter enclosed in bold-faced brackets [thus] in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SBA committee amendments adopted May 11, 2020.

1 products and services offered by any third-party food takeout and  
2 delivery service application or Internet website. <sup>1</sup>However, any  
3 restaurant that chooses to pay a service fee that is greater than the  
4 fee set forth in the provisions of this section shall be required to  
5 affirmatively elect to pay that fee regardless of any contract that is  
6 in effect on the effective date of this act unless the contract was  
7 entered into prior to the state of emergency declared by the  
8 Governor pursuant to Executive Order No. 103 of 2020.<sup>1</sup>

9 b. The provisions of this section shall supersede and preempt  
10 any county or municipal law, ordinance, resolution, or regulation  
11 concerning the relationship between third-party food takeout and  
12 delivery service applications or Internet websites and any restaurant  
13 utilizing its services.

14 c. As used in this section, “third-party food takeout and  
15 delivery service application or Internet website” means any online  
16 food ordering and delivery service that allows a consumer to place  
17 an order for takeout or delivery from a restaurant.

18

19 3. This act shall take effect immediately.