



## Assembly Bill 286: Third-Party Food Delivery Fee Transparency

### IN BRIEF

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Assembly Bill 286 will provide price transparency that will ensure both restaurant owners and customers have a full understanding of the service costs of food delivery companies.

### BACKGROUND

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California restaurants serve as anchors of the communities they are located in, bringing in over \$7 billion in sales tax revenues to local communities and employ over 1.6 million Californians.

In recent years, food delivery companies like GrubHub, Postmates, and UberEats have aggressively entered the food service space. Some restaurateurs buy into the idea that these companies will grow their customer base and increase their total revenues, and are offered limited-time discounts or rate cuts by the delivery service for joining.

However, restaurants have reported unauthorized listing of their business on platforms, the lack of an ability to connect with their customers, and difficulty with ensuring quality of service. In response to growing complaints, the Legislature enacted AB 2149 (Gonzalez 2020), also known as the Fair Food Delivery Act, which required food delivery companies to enter into an agreement with a restaurant prior to arranging for receipt and delivery of a food order.

Under California’s Stay at Home Order and local restrictions on indoor dining to prevent the spread of COVID-19 this past year, restaurants have increasingly turned to delivery and food delivery services as one of the few ways to continue serving their customers safely.

### THE PROBLEM

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Restaurants pay delivery companies a commission on their sales, as determined by the food delivery company. While large chains may be able to negotiate the amount, smaller neighborhood restaurants often lack negotiating power. In the event a restaurant objects to the commission amounts or commission increases, or stops doing business with a delivery company, food delivery companies can undercut restaurants by re-directing customers to a competing business or “ghost kitchen.”

<sup>1</sup> <https://www.wired.com/story/delivery-apps-offer-restaurants-lifeline-cost/>  
<sup>2</sup> [https://laist.com/2020/08/10/why\\_so\\_many\\_restaurants\\_hate\\_food\\_delivery\\_apps.php](https://laist.com/2020/08/10/why_so_many_restaurants_hate_food_delivery_apps.php)

As additional restaurants turned to the use of third-party companies to provide delivery service shortly after the Stay at Home Order, many owners quickly found that fees and service charges frequently reached and exceeded 30%.<sup>1</sup> In an industry where profit margins are tight, restaurateurs are reporting that commission costs take a significant portion of their margins, and in some cases, are even losing the restaurant money.<sup>2</sup>

Food delivery companies charge both restaurants and consumers for services, but without any clear transparency to either party about the cost passed down to the respective parties. For restaurant owners and consumer that would like to understand the overall and relative value of the service provided by food delivery companies, the reporting practices of these companies obfuscate the fees that restaurants and customer pay. Furthermore, transparency of the fees paid by both parties would further help food facilities determine whether platforms whom they contract with are complying with local commission cap ordinances.<sup>3</sup>

### THE SOLUTION

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AB 286 builds upon previous legislation aimed at protecting small community and family-run restaurants from unfair business practices by providing owners and customers with transparency of the cost of service. Specifically, this bill will:

- Prohibit delivery companies from charging a higher price for food than the price set by the food facility;
- Require delivery companies to provide a notice to customers of any applicable fees charged to restaurants and customers; and
- Clarify that any tip or gratuity shall be paid in its entirety directly to the person delivering the order, or to the food facility for pick-up orders.

### FOR MORE INFORMATION

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<sup>3</sup> <https://www.restaurantdive.com/news/doordash-to-reimburse-restaurants-after-violating-san-franciscos-15-fee-c/581275/>