

The Senate Committee on Agriculture & Consumer Affairs offered the following substitute to SB 34:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 13 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated,
2 relating to food service establishments, so as to prohibit a third-party delivery service from
3 committing unfair, unsafe, and unhealthy practices in this state; to provide for definitions;
4 to prohibit a third-party delivery service from arranging for the delivery of ready-to-eat food
5 from a food service establishment without prior written consent from such establishment; to
6 prohibit a third-party delivery service from using a food service establishment's name,
7 likeness, registered trademark, or intellectual property without prior written consent from
8 such establishment; to require the food holding area of a vehicle being used to transport or
9 deliver ready-to-eat food from a food service establishment to a customer as ordered through
10 a third-party delivery service to be kept clean; to require the use of appropriate containers to
11 ensure the safety of such food transported through such service; to require containers
12 transporting such foods through such service to be closed or sealed and kept closed or sealed
13 until delivery to the customer; to prohibit smoking and vaping in a vehicle operated by a
14 deliverer contracted by such service for the transportation and delivery of such food; to
15 prohibit the presence of animals, excluding in-use service animals, in a vehicle operated by
16 such delivery person; to provide for private causes of action; to provide for rules and
17 regulations; to provide for related matters; to provide for an effective date; to repeal
18 conflicting laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 SECTION 1.

21 Article 13 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to
22 food service establishments, is amended by adding a new Code section to read as follows:

23 "26-2-380.

24 (a) As used in this Code section, the term:

25 (1) 'Customer' means the person, business, or other entity placing or receiving an order,
26 for remuneration, for the delivery of ready-to-eat food from a food service establishment
27 through a third-party delivery service.

28 (2) 'Ready-to-eat food' means food in a form that is edible without additional preparation
29 to render it safe for consumption.

30 (3) 'Third-party delivery service' means a business, other than a food service
31 establishment, that, for remuneration, operates a platform, website, mobile application,
32 or other electronic service through which the order, pickup, and delivery of ready-to-eat
33 food from a food service establishment to a customer is arranged.

34 (b) A third-party delivery service shall not:

35 (1) Arrange for the delivery of an order from a food service establishment to a customer
36 without such establishment's prior written consent expressly authorizing such service to
37 take orders and pickup, transport, and deliver such orders from such establishment to a
38 customer; or

39 (2) Use a food service establishment's name, likeness, registered trademark, or
40 intellectual property on such service's platform, website, mobile application, or other
41 electronic service or other public-facing materials without obtaining such establishment's
42 prior written consent.

43 (c) Ready-to-eat food delivered through a third-party delivery service shall be transported
44 and delivered in a manner that meets all of the following requirements:

45 (1) The interior floor, sides, and top of the food-holding area within the vehicle used for
46 transportation and delivery shall be clean and capable of withstanding frequent cleaning;

47 (2) The ready-to-eat food shall be maintained at a holding temperature necessary to
48 prevent spoilage using appropriate containers;

49 (3) All bags or containers in which ready-to-eat food is being transported or delivered
50 from a food service establishment to a customer shall be closed or sealed by such food
51 service establishment with a tamper-resistant method prior to the third-party delivery
52 service taking possession of such food, and all such bags or containers shall remain
53 closed or sealed until delivery to the customer;

54 (4) The individual transporting or delivering the ready-to-eat food items for a third-party
55 delivery service shall not have any animals in the vehicle when ready-to-eat food for
56 delivery is being transported or delivered in such vehicle; provided, however, that a
57 trained and certified service animal on duty assisting such individual may be present; and

58 (5) Smoking or vaping in the vehicle while ready-to-eat food items are in the vehicle
59 shall be prohibited.

60 (d)(1) An aggrieved food service establishment alleging a third-party delivery service is
61 in violation of this Code section may seek judicial enforcement of the requirements of
62 this Code section in an action brought against such service in the county in which the
63 violation occurred. The following civil penalties shall be imposed for a violation of this
64 Code section: for the first violation, \$1,000.00; for the second violation, \$2,000.00; and
65 for a third and any subsequent violation, \$10,000.00.

66 (2) In addition to the penalties provided for in paragraph (1) of this subsection, an
67 aggrieved food service establishment may bring an action to enjoin a violation of this
68 Code section. If the court finds a violation of this Code section, the court shall issue an
69 injunction against such service and may require such service to pay the injured
70 establishment all profits derived from or damages resulting from the wrongful acts;
71 provided, however, that, if the court finds that such service committed a wrongful act in

72 bad faith, in the court's discretion, the court shall enter a judgment in an amount not to
73 exceed three times the amount of profits derived and damages resulting from such
74 wrongful acts and award reasonable attorney's fees to such establishment.

75 (3) A third-party delivery service shall be liable for any harm or injury caused by a
76 failure by such service or its agent, employee, or independent contractor to satisfy the
77 requirements provided for in subsection (c) of this Code section but shall not be liable for
78 a food service establishment's violation of the requirement provided for in paragraph (3)
79 of subsection (c) of this Code section; provided, however, that it shall be an affirmative
80 defense if such service shows that it used due diligence and established substantial
81 processes, including, but not limited to, establishing and confirming receipt of standards
82 and providing training, to ensure compliance with the provisions of subsection (c) of this
83 Code section.

84 (e) The Department of Public Health shall adopt and promulgate rules and regulations to
85 implement this Code section."

86 **SECTION 2.**

87 This Act shall become effective on January 1, 2024.

88 **SECTION 3.**

89 All laws and parts of laws in conflict with this Act are repealed.