

Date of Hearing: March 18, 2025

Fiscal: No

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Rebecca Bauer-Kahan, Chair

AB 578 (Bauer-Kahan) – As Introduced February 12, 2025

PROPOSED AMENDMENTS

SUBJECT: Food delivery platforms: customer service

SYNOPSIS

In 2020, the Legislature adopted the Fair Food Delivery Act (Act). The Act prohibits food delivery platforms from arranging for the delivery of an order from a food facility without first obtaining an agreement with the food facility expressly authorizing the food delivery platform to take orders and deliver meals prepared by the food facility. Since then, many measures have been chaptered that have expanded the protections for consumers, restaurants, and workers on food delivery platforms.

This author-sponsored bill seeks to strengthen consumer protections by ensuring that food delivery platforms provide the level of customer service consumers request. Specifically, this bill requires that food delivery platforms enable a streamlined way for consumers to interact with a live customer service representative if necessary, rather than only an automated system. This bill also requires that refunds for missed, partial, and incorrect deliveries can be remedied by requiring the platform to provide refunds that account for all associated fees, tips, and cost differences between the incorrect order and what the consumer receives. Consumers must also have the option to receive refunds via their original payment method.

In light of recent settlements between major food delivery platforms and state Attorneys General, the committee is offering amendments, set forth in Comment 5, to address wage payment structures that disadvantage workers. This includes prohibiting the use of gratuity or tips to offset the guaranteed pay that the platform offers workers for delivery. Furthermore, the amendments provide a mechanism for greater transparency in the pay that workers receive.

This bill is opposed by TechNet and California Chamber of Commerce.

THIS BILL:

- 1) Requires that a food delivery platform have a clear and conspicuous way for customers to contact a natural person when interacting with customer service. This provision does not prohibit the use of automated systems to address customers concerns.
- 2) Requires that food delivery platforms provide a full refund including all taxes, commissions, fees, and gratuities, to the customer if an order is not delivered or the wrong order is delivered.
- 3) In the event of a partially delivered order, requires that food delivery platforms charge the customer only for the amount delivered and prorate all taxes, commissions, and fees so they are commensurate with the amount the customer pays for the partial order.

- 4) In the event of a partially delivered order, requires food delivery platforms to provide a mechanism that allows the customer to adjust any gratuity that was included in the order prior to its delivery.
- 5) Requires that food delivery platforms provide a mechanism that allows the customer to request that the amount of the refund be returned to the original method of payment.

EXISTING LAW:

- 1) Establishes the Fair Food Delivery Act, which prohibits food delivery platforms, as defined, from arranging for the delivery of an order from a food facility, as defined, without first obtaining an agreement with the food facility expressly authorizing the food delivery platform to take orders and deliver meals prepared by the food facility. (Bus. & Prof Code § 22598 et seq.)
- 2) Defines:
 - a) “Food delivery platform” as an online business that acts as an intermediary between consumers and multiple food facilities to submit food orders from a consumer to a participating food facility and to arrange for the delivery of the order from the food facility to the consumer.
 - b) “Food facility,” via a cross reference to Health and Safety Code section 113789, which generally defines that term as an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, as specified.
 - c) “Online order” as an order for food or beverage placed by a customer through or with the assistance of a food delivery platform, including, but not limited to, a telephone order, for delivery.
 - d) “Purchase price” as the price, as listed on the menu, for the items contained in an online order. This definition does not include taxes or gratuities that may make up the total amount charged to the customer of an online order. (Bus. & Prof. Code § 22598.)
- 3) Prohibits a food delivery platform from arranging for the delivery of an order from a food facility without first obtaining an agreement with the food facility expressly authorizing the food delivery platform to take orders and deliver meals prepared by the food facility. (Bus. & Prof. Code § 22599(a).)
- 4) Requires a food delivery platform to provide to a food facility a mechanism to do both of the following:
 - a) Remove the food facility, including its name, address, logo, or menu listing, from the platform within three business days of receiving a request to be removed from the platform.

- b) Direct the food delivery platform to disclose to customers the delivery fee charged to the food facility and each fee, commission, or cost charged to the food facility. (Bus. & Prof. Code § 22599(b).)
- 5) Requires a food delivery platform to inform a food facility of both of the following prior to signing an agreement:
 - a) The fees charged by the food delivery platform for each service plan offered.
 - b) The features included in each service plan, as applicable. (Bus. & Prof. Code § 22599(c).)
- 6) Require a food delivery platform to inform a food facility of all of the following:
 - a) How charges for customer order and delivery errors are calculated.
 - b) How charges related to errors are allocated between the food delivery platform and the food facility.
 - c) The process for food facilities to dispute charges related to errors, including whether disputes may be subject to automatic resolution. (Bus. & Prof. Code § 22599(d).)
- 7) Makes it unlawful for a food delivery platform to do the following:
 - a) Charge a customer any purchase price for food or beverage that is higher than the price posted on the food delivery platform's website by the food facility at the time of the order.
 - b) Retain any portion of amounts designated as a tip or gratuity. Any tip or gratuity for a delivery order shall be paid by a food delivery platform, in its entirety, to the person delivering the food or beverage. Any tip or gratuity for a pickup order shall be paid by a food delivery platform, in its entirety, to the food facility. (Bus. & Prof. Code § 22599.1(a).)
- 8) Requires a food delivery platform to disclose to the customer and to the food facility an accurate, clearly identified, and itemized cost breakdown of each transaction, including the following information:
 - a) The purchase price of the food and beverage.
 - b) A notice, if applicable, that the food delivery platform charges a fee, commission, or cost to the food facility, unless the food facility directs that the food delivery platform disclose to customers the delivery fee charged to the food facility and each fee, commission, or cost charged to the food facility.
 - c) Each fee, commission, or cost charged to the customer by the food delivery platform.
 - d) Any tip or gratuity. (Bus. & Prof. Code § 22599.1(b).)

- 9) Prohibits a listing website from associating a telephone number or other method of direct communication with a food facility on the listing website's internet website or application if the listing website knows the use of that telephone number or other method of direct communication will result in a forwarded call. (Bus. & Prof. Code § 22599.1(c)(1).)
- 10) Requires a listing website to clearly and conspicuously disclose if an order placed through a telephone number or other interface on the listing website's internet website or application may result in a fee, commission, or cost paid to a party other than the food facility and shall identify that other party. (Bus. & Prof. Code § 22599.1(c)(2).)
- 11) Requires a food delivery platform to clearly and regularly disclose to the food facility and the customer the status of the order, including all of the following:
 - a) The method of delivery.
 - b) The anticipated date and time of the delivery of the order.
 - c) Confirmation that the order has been successfully delivered or that the delivery cannot be completed. (Bus. & Prof. Code § 22599.1(d).)
- 12) Establishes the Unfair Competition Law, which provides a statutory cause of action for any unlawful, unfair, or fraudulent business act or practice and unfair, deceptive, untrue, or misleading advertising, including over the internet. (Bus. & Prof. Code § 17200 et seq.)

COMMENTS:

1) **Author's statement.** According to the author:

The rise of food delivery platforms has led to increased consumer complaints about undelivered orders, lack of refunds, and unreliable customer service. Many customers struggle to get their money back when orders are incomplete or never arrive, while automated customer service systems leave them without assistance. This legislation ensures full refunds for failed deliveries. Simply providing credits is neither sufficient nor fair, as customers are rightfully entitled to recover their money rather than accepting a substitute. Further, AB 578 mandates live customer support representatives to assist with issues, which improves accessibility and user experience. Finally, to ensure gratuities reflect service quality, this bill allows tips to be adjusted after failed deliveries. These changes promote fairness and transparency to ensure consumer protection.

2) **The Fair Food Delivery Act.** Several lawsuits against food delivery platforms have been filed across the country alleging, among other unscrupulous behaviors, unfair business practices, labor violations, and the misuse of restaurants' names and logos.¹ One type of predatory practice involved listing restaurants on food delivery websites without their consent,² which risks

¹ See Jaya Saxena *Who's Paying for the Great Delivery Wars?* (Jan. 21, 2021) Eater.com, available at <https://www.eater.com/22224695/uber-eats-postmates-grubhub-delivery-wars-2021>.

² Janelle Bitker & Shwanika Narayan, *Grubhub, DoorDash rush to add restaurants. Customers and drivers pay the price* (Feb. 2, 2020) San Francisco Chronicle, available at <https://www.sfchronicle.com/business/article/Grubhub-DoorDash-rush-to-add-restaurants-15023372.php>.

overwhelming restaurant operations, creating quality and safety problems, and eroding customer bases.

In response, the Legislature adopted the Fair Food Delivery Act of 2020. The Act prohibits food delivery platforms from arranging for the delivery of an order from a food facility without first obtaining an agreement with the food facility expressly authorizing the food delivery platform to take orders and deliver meals prepared by the food facility.

AB 286 (Gonzalez, Ch. 513, Stats. 2021) expanded the Act by prohibiting a food delivery platform from marking up the price of the food and beverages it delivers or retaining tips or gratuities it receives. AB 286 also requires food delivery platforms to provide itemized cost breakdowns to customers and food facilities that include the purchase price of the food and beverage; a notice, if applicable, that the food delivery platform charges a fee, commission, or cost to the food facility, except as specified; each fee, commission, or cost charged to the customer by the food delivery platform; and any tip or gratuity.

Last session, AB 502 (Lee, Ch. 164, Stats. 2023) addressed issues with consumer communications intended for food facilities that are placed through a listing website. It prohibits such websites from associating methods of communication with a food facility where they know that use of that method will result in a “forwarded call,” as defined. AB 502 also requires certain disclosures with respect to fees, commissions, and other costs in connection with orders placed through such websites.

Last year, SB 1490 (Durazo, Ch. 898, Stats. 2024) addressed issues with transparency in the delivery process and to inform the food facilities of specified details, including information about how errors are handled and charged and the various fees and features involved with the platform’s various plans. It also requires platforms to provide food facilities a mechanism for removing themselves and for directing the platform to disclose to consumers the delivery fee charged to the facility.

3) Food delivery platforms have unclear refund policies. Grubhub, DoorDash, and Uber Eats dominate the food delivery market, yet none of these platforms have a clear refund policy. All three state that sales are final, and refunds are issued at their discretion, with no obligation to provide reimbursement.^{3,4,5} Last year, a Rocklin resident was unable to receive a refund from DoorDash for virtual reality goggles he ordered through the platform because of their “no obligation to issue a refund”.⁶ Although the retailer refunded DoorDash for the purchase, the platform failed to pass the refund on to the customer until after the case received public attention.

These unclear refund policies become increasingly complicated for deliveries that are either wrong or incomplete. Consumers typically pay tips, service charges, and other fees upfront, assuming their orders will be fulfilled correctly. If an order is incomplete, the consumer may

³ DoorDash, “Consumer Terms and Conditions,” <https://help.doordash.com/legal/document?type=cx-terms-and-conditions®ion=US&locale=en-US>, Accessed on Mar. 10, 2025.

⁴ Uber, “U.S. Terms of Use,” <https://www.uber.com/legal/en/document/?name=general-terms-of-use&country=united-states&lang=en>, Accessed on Mar. 10, 2025.

⁵ Grubhub, “Terms of Use,” <https://www.grubhub.com/legal/terms-of-use>, Accessed on Mar. 10, 2025

⁶ Kurtis Ming and Kevin Wing, “DoorDash now delivers electronics; viewer got stiffed on \$500 refund”, *CBS News* (July 1, 2024), <https://www.cbsnews.com/sacramento/news/doordash-now-delivers-electronics-viewer-got-stiffed-on-500-refund-call-kurtis-investigates/>

receive a refund for the missing items, but may not be reimbursed for associated tips and fees. For example, consider an order for ten pizzas totaling \$200 and the consumer pays an additional \$100 for the fees and tip. If only one of those pizzas is delivered, then the consumer would likely be refunded for the \$180 of pizza that was not delivered, but it is unclear with current policies in place if the consumer can be refunded any amount of the \$100 used for the tip and fees paid corresponding to the original \$200 order, not the \$20 order that was actually delivered.

This is further compounded by the increasing reliance on chatbots to assist with customer service. Many consumers find these automated systems frustrating, particularly when dealing with complex refund request. Reports from last year showed that 45% of American consumers had an unfavorable feeling toward the use of chatbots for customer service while only 19% were favorable.⁷ Chatbots can become increasingly difficult to work with if they are trained to respond in ways that align with the platform's policies, especially if the policies, such as those for refunds, are unclear. This is likely why about 60% of people prefer live chats with human customer service agents over a chatbot.⁸

4) What this bill would do. AB 568 would ensure that consumers have the ability to communicate with a natural person when interacting with customer service on a food delivery platform. This bill does not outlaw the use of automated chatbots by online delivery platforms, but does require food delivery platforms to include a readily accessible way to interact with a natural person. This requirement is intended to provide consumers with the option to remedy their grievances in whatever way best suits them.

This bill also would require that food delivery platforms provide a full refund including taxes, other fees, and gratuities to a customer for an undelivered or incorrect order. For partial orders, this bill requires the food delivery platforms to offer prorated refunds commensurate with the amount paid for the partial order. This bill also requires the food platforms to allow customers to adjust gratuity for partially delivered orders and that all refunds must be able to be returned to the original payment method. These practices were previously unclear with regard to how refunds were dispersed. Recent reports suggest that refund fraud may be on the rise on food delivery platforms and this bill could aid bad actors in defrauding these companies.⁹ However, good faith consumers should not be penalized for the actions of those who take advantage of these systems. Platforms still retain the power to choose which consumers can use their platforms and have the right to investigate refund claims as fraudulent.

5) Amendments. Food delivery platforms have recently come under fire due to unfair wage practices. The Attorneys General for both Illinois and New York have reached settlements with

⁷ Jason Collins, "Customer Service Chatbots Earn Mixed Reviews as People Still Prefer Human Conversations," *Civic Science* (July 24, 2024), <https://civicscience.com/customer-service-chatbots-earn-mixed-reviews-as-people-still-prefer-human-conversations/#:~:text=Customer%20Service%20Satisfaction%20Across%20the%20Board%20Is%20Mixed&text=CivicScience%20learned%20that%2C%20in%20general,those%20who%20were%20not%20satisfied.>

⁸ Danielle Comisso, "Do Chatbots Live Up to the Hype? Consumers Weigh In," *Civic Science* (Apr. 28, 2022), <https://civicscience.com/do-chatbots-live-up-to-the-hype-consumers-weigh-in/>

⁹ Alex Bitter "Customers are fraudulently asking delivery apps for refunds on food they received", *Business Insider* (Feb. 26, 2025), Accessed at <https://www.msn.com/en-ie/money/other/customers-are-fraudulently-asking-delivery-apps-for-refunds-on-food-they-received/ar-AA1zPzLV?apiversion=v2&noservercache=1&domshim=1&renderwebcomponents=1&wcseo=1&batchservertelemetry=1&noservertelemetry=1>.

DoorDash regarding their use of tips to offset guaranteed pay.¹⁰ The New York AG's investigation found that DoorDash was using a deceptive pay model whereby delivery drivers were only able to see their tips if the tip was greater than the payment amount DoorDash guaranteed. For example, if a driver was guaranteed \$10 and the customer tipped \$4, the driver would be paid \$10 with the customer contributing \$4 and DoorDash contributing \$6. These cases resulted in a \$16.25 million settlement in NY and a \$11.25 million settlement in Illinois.^{11,12} These types of practices may exist in California because the law currently only prohibits the retaining of any tip or gratuity, and as the gratuity is not retained by DoorDash, it may not violate the law, but arguably it violates the Legislature's intent.

Due to these recent settlements, the committee amendments would ensure that the workers making the deliveries are entitled to both the guaranteed pay the food delivery platforms offer as well as the gratuity the consumer pays. To ensure delivery drivers are apprised of their compensation, the committee amendments would also increase the transparency of the payment models to the drivers.

The amendments read:

22599.1. (a) It is unlawful for a food delivery platform to do either of the following:

(1) Charge a customer any purchase price for food or beverage that is higher than the price posted on the food delivery platform's internet website by the food facility at the time of the order.

(2) Retain any portion of amounts designated as a tip or gratuity. Any tip or gratuity for a delivery order shall be paid by a food delivery platform, in its entirety, to the person delivering the food or beverage. Any tip or gratuity for a pickup order shall be paid by a food delivery platform, in its entirety, to the food facility.

(3) Maintain a payment model that uses any amount designated as tips or gratuity to offset the base pay to the person delivering the food or beverage.

(b) A food delivery platform shall prominently disclose to the customer and to the food facility an accurate, clearly identified, and itemized cost breakdown of each transaction, including, but not limited to, all of the following information:

(1) The purchase price of the food and beverage.

(2) A notice, if applicable, that the food delivery platform charges a fee, commission, or cost to the food facility, unless the food facility directs that the food delivery platform disclose to

¹⁰ New York State Attorney General, "Attorney General James Secures \$16.75 Million from DoorDash for Cheating Delivery Workers Out of Tips," <https://ag.ny.gov/press-release/2025/attorney-general-james-secures-1675-million-doordash-cheating-delivery-workers> Accessed on Mar. 10, 2025.

¹¹ Ibid.

¹² Office of the Illinois Attorney General, "ATTORNEY GENERAL RAOUL ANNOUNCES \$11.25 MILLION SETTLEMENT AGREEMENT WITH DOORDASH OVER DELIVERY DRIVER TIPS," <https://illinoisattorneygeneral.gov/news/story/attorney-general-raoul-announces-1125-million-settlement-agreement-with-doorash-over-delivery-driver-tips> Accessed on Mar. 10, 2025.

customers the delivery fee charged to the food facility and each fee, commission, or cost charged to the food facility.

(3) Each fee, commission, and any other cost charged to the customer by the food delivery platform.

(4) Any tip or gratuity payable to the delivery driver or food facility.

(c) A food delivery platform shall prominently disclose to the person delivering the food or beverage an accurate, clearly identified, and itemized breakdown of the pay received for a delivery including, but not limited to, the base pay, gratuity or tips, and any promotional bonuses.

(de)(1) A listing website shall not associate a telephone number or other method of direct communication with a food facility on the listing website's internet website or application if the listing website knows the use of that telephone number or other method of direct communication will result in a forwarded call.

(2) A listing website shall clearly and conspicuously disclose if an order placed through a telephone number or other interface on the listing website's internet website or application may result in a fee, commission, or cost paid to a party other than the food facility and shall identify that other party.

(ed) A food delivery platform shall clearly and regularly disclose to the food facility and the customer the status of the order, including all of the following:

(1) The method of delivery.

(2) The anticipated date and time of the delivery of the order.

(3) Confirmation that the order has been successfully delivered or that the delivery cannot be completed.

(fe) A food delivery platform shall include a clear and conspicuous customer service feature that allows a customer to contact a natural person. The food delivery platform may use an automated system to address customer service concerns. However, if the automated system is unable to address the customer's concerns, the food delivery platform shall ensure that the customer is able to promptly connect with the natural person in order to address the concern.

ARGUMENTS IN OPPOSITION: In opposition to the bill, California Chamber of Commerce and TechNet, argues:

At a functional level, we have concerns that some of these provisions are unworkable. For example, some of the fees associated with delivery are not percentage-based and thus cannot be "pro-rated" ... notably there may be a flat fee to delivery orders below a certain total value. We also have concerns with the bill's focus on refunding or altering gratuities. The gratuity for an order is customarily already provided to the delivery person by the time a refund or complaint is made – meaning that unpacking that transaction and re-claiming a gratuity may not be feasible for the delivery platform. As a result, though we are sensitive to

the author's intention regarding clear and efficient refund policies, we have some concerns with the present language that we are continuing to discuss with member companies.

In addition, due to the early nature of this hearing (and related letter deadline) we are continuing to gather feedback regarding the proposed Business & Professions Code Section 22599.1 related to customer service and will engage with your office as concerns arise. We believe concerns may arise related to how the bill's requirement of "promptly connect[ing]" to customer service may be operationalized, as well as how to include a "clear and conspicuous customer service" allowing customers to reach a "natural person" on the limited screen space of a mobile app. However, at this time, we are still awaiting more feedback from members on these issues.

For these reasons and others, we must OPPOSE AB 578.

REGISTERED SUPPORT / OPPOSITION:**Support**

None on file.

Opposition

California Chamber of Commerce
TechNet

Analysis Prepared by: John Bennett / P. & C.P. / (916) 319-2200