

Date of Hearing: January 9, 2024

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Rebecca Bauer-Kahan, Chair

AB 375 (Davies) – As Amended January 3, 2024

PROPOSED CONSENT

**SUBJECT:** Business: food delivery platforms: required information

**SYNOPSIS**

*The intent of this author-sponsored bill is to increase the safety of customers using food delivery services, such as DoorDash, Uber Eats, and GrubHub, by providing them with identifying information about the person who will be delivering their order. The bill is modeled on a 2018 addition to the Transportation Charter-party Carrier's Act that required transportation network companies (TNCs) such as Uber and Lyft to provide customers with their driver's first name, picture, make and model of vehicle, and license plate number.*

*While food delivery services often provide the option of no-contact delivery (where food is left at the customer's front door), that option is often not available if someone lives in a secure apartment complex or college dormitory, or if the order contains an alcoholic beverage. In those instances, the customer is required to receive their order directly from the delivery person. The security associated with providing the customer with a picture of the delivery person and their first name seems to outweigh any potential increased risks to the delivery person associated with identifying who they are in advance of the delivery. In fact, it appears the majority of food delivery platforms are already providing this information voluntarily.*

*There is no registered support for, or opposition to, this measure.*

**SUMMARY:** Requires food delivery platforms to provide specific information on their platforms to customers regarding the person who will be delivering their food or beverage. Specifically, **this bill:**

- 1) Mandates that, by March 1, 2025, an online food delivery platform must provide the following information to a customer on its online-enabled application or platform at the time the customer is notified that their purchase is out for delivery:
  - a) The driver's first name.
  - b) The driver's picture.

**EXISTING LAW:**

- 1) Defines "food delivery platform" to mean 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. (Bus. & Prof. Code § 22598(a).)

- 2) Requires TNCs to provide a driver's first name, picture, license plate number and picture of the car to passengers on its online-enabled application or platform. (Pub. Util. Code § 5445.1.)

**FISCAL EFFECT:** As currently in print, this bill is keyed non-fiscal.

**COMMENTS:**

1) **Purpose of the bill.** This bill would require a food delivery platform, such as DoorDash or Grubhub, to provide a picture and the first name of the delivery person to the customer on its application or platform at the time the customer is notified their purchase is out for delivery. Specifically, the bill is modeled on a 2018 addition to the Transportation Charter-party Carrier's Act that required transportation network companies (TNCs), such as Uber and Lyft, to provide customers with their driver's first name, picture, make and model of vehicle, and license plate number.

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

California is the home of innovation and entrepreneurship. We take great pride in ensuring technology developed and used in our state benefits not only the business, but the consumer. Unfortunately, when it comes to the intersection of technology and public safety, there are grey areas. AB 375 is a common sense measure to close one of these grey areas and ensure that when a customer is using a food delivery application, they are given appropriate information about who is coming to their residence. Should an unfortunate incident occur, as we have seen, this kind of information could help local law enforcement and the application itself track down who was responsible and allow the legal system to proceed promptly.

- 3) **Food delivery platforms, COVID-19, and the transition to digital dining.** The COVID-19 pandemic devastated the restaurant industry when eat-in dining was prohibited. As a result, significant numbers of jobs were lost and the industry was forced to embrace food delivery and take-out dining. The July 2023 federal jobs report shows that the restaurant industry has not quite returned to its pre-pandemic levels. (National Restaurant Association, *Restaurant job growth resumed in July* (Aug. 4, 2023), available at <https://restaurant.org/research-and-media/research/economists-notebook/analysis-commentary/restaurant-job-growth-resumed-in-july/>.) Coincident with the hardship faced by the restaurant industry, the use of food delivery platforms, which facilitate food orders, pick-up, and delivery from restaurants and other food facilities, saw a marked increase in use as food delivery accommodated a population that was either sheltering-in-place or wary of in-person dining.

Though accelerated by COVID-19 pandemic, the transition away from in-person dining and to digital ordering for take-out or delivery long preceded the pandemic's limitations on dining in. According to a report by NPD Group, a market research firm, restaurant digital orders grew at an average annual rate of 23% from 2013-2019, and were expected to triple in volume by the end of 2020 even before there was any awareness of the impending pandemic. (Circana, *Mobile Apps Now Represent the Bulk of Restaurant Digital Orders and Restaurant Branded Apps Dominate*, Press Release (Feb. 4, 2019), available at <https://www.npd.com/wps/portal/npd/us/news/press-releases/2019/mobile-apps-now-represent-the-bulk-of-restaurant-digital-orders-and-restaurant-branded-apps-dominate/>.)

Food delivery service revenues worldwide are now estimated to be worth more than \$250 billion and the number of users continues to grow, even as much of public life has resumed in the wake of the pandemic. (*Revenue of the online food delivery market in the United States from 2017 to 2027*, Statista 2023, available at <https://www.statista.com/forecasts/891082/online-food-delivery-revenue-by-segment-in-united-states>.) The four largest services in the United States are DoorDash, GrubHub, Uber Eats, and Postmates (acquired by Uber Eats in 2020).

4) **Contact vs. non-contact delivery.** Generally, non-contact delivery is the default method for food delivery services if the customer is not ordering an alcoholic beverage. In a non-contact delivery, once the driver has delivered a customer's food order, the driver will text a picture of where they left the food to the customer. This type of delivery is considered the safest for both the customer and the driver.

However, for customers who live in apartments or in college dorms, non-contact delivery is not an option. In such situations, the delivery person has to be let into the building in order to deliver the food. As noted above, customers who are ordering alcoholic beverages also cannot request that the order be left at their doors, because the delivery person is required to verify that the person receiving the alcohol is over 21 years of age.

The author's office notes that, in such cases, the enhanced security precautions included in this bill—particularly requiring the picture of the driver be provided to the customer—are necessary in order to ensure that the person being allowed into the building or having direct contact with the customer is actually the delivery person and not someone impersonating the driver in order to gain access.

5) **Food delivery company incidents.** There have been a number of news reports in recent years about the significant number of rapes and assaults of women by drivers working for ridesharing companies. The problem has been so significant that in 2022, Uber was faced with a lawsuit from at least 550 former passengers who reported that they had been sexually assaulted by Uber drivers. (Hern, *Uber faces 550-passenger lawsuit over alleged rape and assault in US*, The Guardian (Jul. 14, 2022), available at <https://www.theguardian.com/technology/2022/jul/14/uber-faces-550-passenger-lawsuit-over-alleged-and-assault-in-us>.) However, unlike the many well-publicized incidents involving the drivers of TNCs, or people pretending to be drivers, sexually assaulting women who use their services, there were no public reports of serious or violent crimes committed by food delivery service drivers—until recently, when a food delivery driver was arrested for sexually assaulting a teen age girl during a delivery. (Fang, *Food delivery driver accused of sexually assaulting girl in San Jose motel*, CBS News (Oct. 25, 2023), available at <https://www.cbsnews.com/sanfrancisco/news/san-jose-food-deliver-driver-arrested-sexual-assaulting-girl-in-motel-1000-the-alameda/>.) The author also points to an incident that occurred in August 2022 in Yuba City where a DoorDash driver allegedly groped a customer after failing to leave the delivery at the door as directed in the order.

6) **Analysis.** Given the lack of reported incidents involving food delivery services when compared with the TNCs and that most delivery companies already provide a picture of the driver, staff is unsure that mandating these particular safety measures is absolutely necessary. However, as noted previously, the author's office makes a compelling argument for providing a picture of the delivery driver in the event that the customer has to have direct contact with the

driver in order to receive their delivery. Doing so might make it more difficult for someone to pose as a food delivery person in order to gain access to someone's home or workplace.

Moreover, this bill would standardize the information provided across platforms. As noted, while most delivery platforms already provide the required information to their customers, including a picture of the delivery person, some do not. For example, UberEats provides its customers with the first name, a picture of the driver, the make and model of the car, and their license plate number, whether the customer is using the service for a ride or for food delivery. DoorDash, on the other hand, only provides its customers with the first name of their delivery person. However, representatives from DoorDash informed staff that the company generally collects the following information from its drivers, which is shared in response to formal requests from law enforcement or in emergency situations:

- Name
- Date of birth
- Address(es)
- Phone number
- Email address
- Make, model, and color of vehicle (if delivering by automobile)
- Order history (including consumer and business addresses and date and time of transactions)

It seems as though consumer protection would be furthered if all California users of food delivery platforms can consistently expect to see the delivery person's name and picture when awaiting delivery.

7) **Related legislation.** AB 502 (Lee, Chap. 164, Stats. 2023) enacted the Food Delivery Transparency Act, which requires disclosure of any fees or commissions charged to the food facility and prohibits listing websites, as defined, from posting on their app or website a telephone number that the listing website knows will result in a forwarded call.

AB 286 (Gonzalez, Chap. 513, Stats. 2021), among other provisions, prohibits a food delivery platform from charging a customer any purchase price for food or beverage that is higher than the price set by the food facility. The bill also prohibits a food delivery platform from retaining any portion of amounts designated as a tip or gratuity. Instead, the platform must pay any tip or gratuity for a delivery order in its entirety to the person delivering the food or beverage.

AB 2986 (Cunningham, Chap. 286, Stats. 2018) requires TNCs to provide each passenger with the driver's name, picture, image of the driver's car, and license plate when the passenger books a ride.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

None on file.

### **Opposition**

None on file.

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