
DIGEST

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HB 458 Engrossed

2020 Regular Session

Gregory Miller

Abstract: Prohibits a third-party delivery service from advertising, promoting, or conveying a relationship with a merchant or using the name, likeness, trademark, or intellectual property of a merchant without an agreement.

Proposed law provides definitions for "agreement", "consumer", "likeness", "merchant", "third-party delivery platform", and "third-party delivery service".

Proposed law prohibits a third-party delivery service from advertising, promoting, or conveying a relationship with a merchant or using the name, likeness, trademark, or intellectual property of a merchant on the third-party delivery platform without an agreement with the merchant.

Proposed law prohibits a third-party delivery service and merchant from entering an agreement pursuant to proposed law that includes a clause or provision that requires the merchant to indemnify the third-party delivery service or independent contractors or agents of the third-party delivery service for damages or harm that occurs after the product leaves the merchant's place of business.

Proposed law establishes the merchant's right to bring an action in a court of competent jurisdiction when a third-party delivery service uses the name, likeness, trademark, or intellectual property of the merchant in violation of proposed law.

Proposed law allows a court of competent jurisdiction to impose a civil penalty, not to exceed \$5,000 or the amount of the merchant's actual damages, whichever is greater, against a third-party delivery service found to be in violation of proposed law. Further, proposed law allows the court to award attorney fees to the prevailing party.

(Adds R.S. 51:3171 and 3172)