

Committee Report

REGULAR CALENDAR

March 2, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Commerce and Consumer Affairs to
which was referred HB 593-FN,**

**AN ACT requiring a food delivery service to enter into
an agreement with a food service establishment or food
retail store before offering delivery service from that
restaurant. Having considered the same, report the
same with the following amendment, and the
recommendation that the bill OUGHT TO PASS WITH
AMENDMENT.**

Rep. John Hunt

FOR THE COMMITTEE

COMMITTEE REPORT

| | |
|-------------------|---|
| Committee: | Commerce and Consumer Affairs |
| Bill Number: | HB 593-FN |
| Title: | requiring a food delivery service to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant. |
| Date: | March 2, 2021 |
| Consent Calendar: | REGULAR |
| Recommendation: | OUGHT TO PASS WITH AMENDMENT 2021-0582h |

STATEMENT OF INTENT

This bill requires a food delivery service such as Grub Hub or Door Dash to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant. Many restaurants in New Hampshire have received complaints from consumers who have ordered food deliveries on the Internet relating to delivery and quality issues only to find that the restaurant has no arrangement or contract with the food delivery company and the restaurant is totally unaware of the actual food order. This bill would require a food delivery service to have a contract with a restaurant before the food service company advertises that they will deliver for the restaurant. The committee wanted to help New Hampshire restaurants but were reluctant to require a contract between two different business. Because of the sense urgency, the committee amendment will make the law effective upon signing, but also sunsets the legislation in 2 years so we may evaluate its impact.

Vote 18-1.

Rep. John Hunt
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Commerce and Consumer Affairs

HB 593-FN, requiring a food delivery service to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant. **OUGHT TO PASS WITH AMENDMENT.**

Rep. John Hunt for Commerce and Consumer Affairs. This bill requires a food delivery service such as Grub Hub or Door Dash to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant. Many restaurants in New Hampshire have received complaints from consumers who have ordered food deliveries on the Internet relating to delivery and quality issues only to find that the restaurant has no arrangement or contract with the food delivery company and the restaurant is totally unaware of the actual food order. This bill would require a food delivery service to have a contract with a restaurant before the food service company advertises that they will deliver for the restaurant. The committee wanted to help New Hampshire restaurants but were reluctant to require a contract between two different business. Because of the sense urgency, the committee amendment will make the law effective upon signing, but also sunsets the legislation in 2 years so we may evaluate its impact. **Vote 18-1.**

Original: House Clerk

Cc: Committee Bill File

Archived: Thursday, April 22, 2021 1:05:56 PM

From: [JOHN HUNT](#)

Sent: Tuesday, March 9, 2021 11:23:04 AM

To: [Carrie Morris](#)

Cc: [Pam Smarling](#)

Subject: HB 593

Importance: Normal

This bill requires a food delivery service such as Grub Hub or Door Dash to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant. Many restaurants in New Hampshire have received complaints from consumers who have ordered food deliveries on the internet for delivery and quality issues but the restaurant has no arrangement or contract with the food delivery company and the restaurant is totally unaware of the actual food order. This bill would require a food delivery service to have a contract with a restaurant before the food service company advertises that they will deliver for the restaurant. The committee wanted to help New Hampshire restaurants but were reluctant to require a contract between two different businesses. Because of the sense of urgency, the committee's amendment will make the law effective upon signing, but also sunsets the legislation in 2 years so we may evaluate its impact.

Rep. Bartlett, Merr. 19
March 2, 2021
2021-0582h
08/10

Amendment to HB 593-FN

1 Amend the bill by replacing all after section 1 with the following:

2

3 2 Prospective Repeal. RSA 359-S, relative to food delivery platforms, is repealed.

4 3 Effective Date.

5 I. Section 2 of this act shall take effect December 31, 2023.

6 II. The remainder of this act shall take effect upon its passage.

Amendment to HB 593-FN
- Page 2 -

2021-0582h

AMENDED ANALYSIS

This bill requires a food delivery service to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant. The provisions of the bill are repealed December 31, 2023.

Voting Sheets

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/22/2021 9:55:55 AM
Roll Call Committee Registers
Report



2021 SESSION

Commerce and Consumer Affairs

Bill #: HB593 Motion: OTP/A AM #: _____ Exec Session Date: 3/2/2021

| <u>Members</u> | <u>YEAS</u> | <u>Nays</u> | <u>NV</u> |
|--------------------------------|-------------|-------------|-----------|
| Hunt, John B. Chairman | 18 | | |
| Potucek, John M. Vice Chairman | 1 | | |
| Osborne, Jason M. | 2 | | |
| Ammon, Keith M. Clerk | | 1 | |
| Abramson, Max | 3 | | |
| Ham, Bonnie D. | 4 | | |
| Depalma IV, Joseph | 5 | | |
| Greeson, Jeffrey | 6 | | |
| Johnson, Dawn M. | 7 | | |
| Terry, Paul A. | 8 | | |
| Bartlett, Christy D. | 9 | | |
| Abel, Richard M. | 10 | | |
| Herbert, Christopher J. | 11 | | |
| Van Houten, Constance | 12 | | |
| Fargo, Kristina M. | 13 | | |
| Weston, Joyce | 14 | | |
| Beaulieu, Jane E. | 15 | | |
| Burroughs, Anita D. | 16 | | |
| McAleer, Chris R. | 17 | | |
| TOTAL VOTE: | 18 | 1 | |

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/22/2021 9:55:55 AM
Roll Call Committee Registers
Report



2021 SESSION

Commerce and Consumer Affairs

Bill #: HB593 Motion: OTP AM #: 0582h Exec Session Date: 3/2/2021

| <u>Members</u> | <u>YEAS</u> | <u>Nays</u> | <u>NV</u> |
|--------------------------------|-------------|-------------|-----------|
| Hunt, John B. Chairman | 17 | | |
| Potucek, John M. Vice Chairman | 1 | | |
| Osborne, Jason M. | 2 | | |
| Ammon, Keith M. Clerk | 3 | | |
| Abramson, Max | 4 | | |
| Ham, Bonnie D. | 5 | | |
| Depalma IV, Joseph | 6 | | |
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| Herbert, Christopher J. | 12 | | |
| Van Houten, Constance | 13 | | |
| Fargo, Kristina M. | | 1 | |
| Weston, Joyce | 14 | | |
| Beaulieu, Jane E. | | 2 | |
| Burroughs, Anita D. | 15 | | |
| McAleer, Chris R. | 16 | | |
| TOTAL VOTE: | 17 | 2 | |

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 593-FN

BILL TITLE: requiring a food delivery service to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant.

DATE: February 16, 2021

LOB ROOM: 302 Hybrid **Time Public Hearing Called to Order:** 9:03 a.m.

Time Adjourned: 9:34 a.m.

Committee Members: Reps. Hunt, Potucek, Ammon, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

Bill Sponsors:

Rep. Wilhelm

Rep. Chretien

Rep. Oxaal

Rep. Moran

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep Matt Wilhelm

Hills 42. Food delivery has become a lifeline with the pandemic. Food delivery service should not operate without express consent from the restaurant. A constituent from a constituent. Restaurant owner had a service offer delivery without service. Restaurants getting bad reviews on Uber Eats. Losing costs and potential customers. Services are offering old menus with incorrect pricing. Menus contain typos. Restaurants closing for renovations had delivery drivers show up requesting orders. Urgent issue affecting restaurants. Urge unanimous OTP. Our businesses are being used by Silicon Valley tech companies.

Rep Herbert

Q: Would this interfere with having an employee making a delivery?

A: Would not interfere with employee deliveries. This is about third-party delivery services.

Rep Burroughs

Q: Some of these delivery services take 30% of the bill. How does the money distributed? Is the restaurant forced to take a cut?

A: Each of these delivery services have different arrangements. It's important why restaurants get things in writing.

Rep Ammon

Q: Can a restaurant refuse to provide service to one of these services?

A: I don't know.

Rep Abramson

Q: Is the underlying problem that these services are providing services.

Tom Boucher

I'm the CEO of Great New Hampshire Restaurants. T-Bones, Copper door, Cactus Jack. Employee a thousand people. These third-party companies are not getting permission from the restaurants. Advertising using our brands, menu, without permission. We asked them to take it down. They had the wrong menus, prices, were delivering late. We hounded them to stop. I ended having to sue them. On NH Business Review. We had to sue Door Dash. They settled because they knew they were wrong. They're robbing mom and pop locations. These small locations can't afford their fee. They charge multiple fees including the tip. A \$16 cheeseburger was \$29. They're trying to take advantage of these restaurants. We need a law to prevent these services from stealing from these restaurants. We spent thousands of dollars to litigate this. We're not asking the state to enforce it. It allows a restaurant to have the basis for a class action lawsuit. I have no control of that food after it leaves the restaurant.

Rep Johnson

Q: Do other states, new England especially, have similar laws?

A: Yes. California recently passed this. Restaurants are struggling right now.

Rep Greeson

Q: Had you received any demands of payment for marketing fees? Had they sent you bills?

A: No. If you don't contract with them, you're not charged, but they increase their prices. TGI \$14 cheeseburger costs \$23. Costs are passed on to the customer.

Rep Abramson

Q: Is the source the delivery platform is advertising using your brand name?

A: Correct. Without my permission.

Rep McAleer

Q: Did you follow through on your Brewery and TGI deliveries?

A: I didn't actually order it. The restaurant gets what they normally charge in the restaurant.

Rep Potucek

Q: Section 3. The violation should be fined \$100 for each delivery.

A: I just think there should be a law. We are not surviving on this.

Rep Wilhelm: We could strip the fine. I think that's what California did in their bill.

Rep Potucek

Q: I meant \$100 wasn't enough. Maybe it should be \$500.

Rep Wilhelm: The committee can do what it wants with this bill.

Alex Hourton

I own café loreense. Small coffee shop in downtown Manchester. We're contracted with a delivery service through Square. \$1.50 per order. Grub hub lists us, but we're not contracted with Grub hub. To work with a delivery service, you need a tablet or a sign in online so we can see an order. Grub hub shows up and demands food. We can't refund the customer and grub hub won't refund the customer. They're stealing money from us and our customers. Contracting with them they take 30% of our profits.

Rep Hunt

Q: Union leader and Kingston pizza. When they show up are they using their credit card? They would place the order with a fraudulent credit card.

A: Some places do because they don't want a bad review.

Rep Bartlett

Q: If we amend this the bill gets delayed. From what you're testifying, would you like to see us move on this as quickly as possible.

A: Yes.

Rep Van Houten

Q: Is this a poor business model for Grub Hub?

A: They're big enough they don't care. They're country wide.

Rep Ham

Q: Can't you use these delivery services to enhance your business?

Rep Hunt: There's nothing stopping any restaurant from having their own delivery service.

Rep Ham: I was under the impression that some of these services. They're not employees of the restaurant they were a service.

Rep Hunt: That's what this legislation requires.

HOUSE COMMITTEE ON COMMERCE & CONSUMER AFFAIRS

PUBLIC HEARING on Bill # HB593

BILL TITLE: requiring a food delivery service to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant

DATE: Feb 16, 2021

ROOM: Zoom

Time Public Hearing Called to Order: 9:03 AM

Time Adjourned: 9:34 AM

(please bold if present)

Committee Members: Reps. Hunt, Potucek, Ammon, Osborne, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

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House Remote Testify

Commerce and Consumer Affairs Committee Testify List for Bill HB593 on 2021-02-16

| <u>Name</u> | <u>City, State</u> <u>Email Address</u> | <u>Title</u> | <u>Representing</u> | <u>Position</u> | <u>Testifying</u> | <u>Signed Up</u> |
|---------------------|--|------------------------|------------------------------------|-----------------|-------------------|--------------------|
| Boucher, Tom | tb@tomboucher.com | A Member of the Public | Great NH Restaurants | Support | Yes (5m) | 2/14/2021 10:31 AM |
| Wilhelm, Rep. Matt | matt.wilhelm@leg.state.nh.us | An Elected Official | Hillsborough 42 | Support | Yes (3m) | 2/12/2021 8:12 PM |
| Horton, Alexandra | alex@cafelareine.com | A Member of the Public | Myself | Support | Yes (3m) | 2/14/2021 4:12 PM |
| McWilliams, Rebecca | rebecca.mcwilliams@leg.state.nh.us | An Elected Official | Merrimack 27 | Support | No | 2/14/2021 10:56 PM |
| Groetzinger, Tonda | groetzinger6@aol.com | A Member of the Public | Myself | Oppose | No | 2/15/2021 8:02 AM |
| Gould, Rep. Linda | lgouldr@myfairpoint.net | An Elected Official | Myself | Oppose | No | 2/15/2021 11:20 AM |
| Mennella, Alexandra | amennella1@protonmail.com | A Member of the Public | Myself | Oppose | No | 2/15/2021 6:47 PM |
| Gilmour, Peggy | pgilmour@preti.com | A Lobbyist | Greater Nashua Chamber of Commerce | Support | No | 2/15/2021 8:06 PM |
| Axelman, Elliot | aluaxelman@gmail.com | A Member of the Public | Myself | Oppose | No | 2/15/2021 9:28 PM |
| Axelman, Kate | kateaxelman@gmail.com | A Member of the Public | Myself | Oppose | No | 2/15/2021 9:28 PM |
| Osborne, Jason | houserepoffice@leg.state.nh.us | An Elected Official | Myself | Oppose | No | 2/16/2021 8:34 AM |
| Buckley, Michael | michael.mtdg@gmail.com | A Member of the Public | Michael Buckley | Support | No | 2/16/2021 8:44 AM |
| Wilhelm, Jody | jody.wilhelm@gmail.com | A Member of the Public | Myself | Support | No | 2/16/2021 8:59 AM |
| HOUGH, GREGG | GreggHough2020@gmail.com | An Elected Official | Myself | Oppose | No | 2/16/2021 9:16 AM |
| Gunski, Michael | mgunski@spsspindle.com | An Elected Official | Hillsborough 6, Goffstown | Oppose | No | 2/16/2021 9:20 AM |
| Greene, Bob | bob.greene@leg.state.nh.us | An Elected Official | Myself | Oppose | No | 2/16/2021 9:27 AM |
| Qualey, Jim | jimqualeyfornh@gmail.com | An Elected Official | Myself | Oppose | No | 2/16/2021 10:00 AM |
| Sheehan, Vanessa | vsheehan16@yahoo.com | An Elected Official | Myself | Oppose | No | 2/16/2021 10:09 AM |
| dostie, donald | dadostietrucking@gmail.com | An Elected Official | Myself | Oppose | No | 2/16/2021 10:37 AM |

| | | | | | | |
|--------------------|------------------------------|------------------------|--|---------|----|--------------------|
| Love, Rep.David | davidlove4rep@gmail.com | An Elected Official | Rockingham 6 | Oppose | No | 2/16/2021 10:39 AM |
| Edwards, Rep Jess | jess.edwards@leg.state.nh.us | An Elected Official | Rockingham District 4 (Auburn, Chester, Sandown) | Oppose | No | 2/16/2021 10:39 AM |
| THEBERGE, ROBERT | rolath@hotmail.com | An Elected Official | Myself | Oppose | No | 2/16/2021 1:37 PM |
| Ford, Oliver | lynchford@comcast.net | An Elected Official | Myself | Oppose | No | 2/16/2021 4:55 PM |
| Josephson, Timothy | josephsonth@gmail.com | A Member of the Public | Myself | Support | No | 2/14/2021 10:46 AM |
| Flammer, Yadin | yadinflammer@gmail.com | A Member of the Public | Myself | Support | No | 2/13/2021 8:51 PM |
| Yokela, Josh | josh.yokela@leg.state.nh.us | An Elected Official | Rockingham 33 | Oppose | No | 2/14/2021 4:03 PM |
| SAWTELLE, ERICK | esawtelles@aol.com | A Member of the Public | Myself | Support | No | 2/14/2021 6:31 PM |

Testimony

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

| | |
|---|-----------------|
| GREAT NEW HAMPSHIRE RESTAURANTS, INC., | Case No. |
| Plaintiff, | |
| v. | |
| DOORDASH, INC., | |
| Defendant. | |

COMPLAINT

The plaintiff Great New Hampshire Restaurants, LLC (“Plaintiff” or “GNHR”), by its undersigned attorneys Rath, Young, and Pignatelli P.C., for its complaint against the defendant Doordash, Inc. (“Doordash” or “Defendant”) alleges as follows:

NATURE OF CASE

1. This is an action of willful trademark infringement, unfair competition, injury to business reputation, and false and deceptive business practices, all in violation of the laws of the United States and the state of New Hampshire. Plaintiff seeks a permanent injunction, damages, including the profits of Doordash, trebled under the law, punitive damages, and related relief as more fully described herein.

THE PARTIES

2. Plaintiff is a limited liability company operating under the laws of New Hampshire having its principal place of 12 Aspen Lane, Bedford, New Hampshire 03031.

3. Upon information and belief, Doordash is a California company with a principle place of business at 470 Olive Avenue, Palo Alto, California.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under section 39 of the Lanham Act, 15 U.S.C. § 1121, sections 1332(a), 1338(a) and 1338(b) of the Judicial Code, 28 U.S.C. § 1338(a) and § 1338(b). This Court has subject matter jurisdiction over the non-federal claims asserted herein pursuant to section 1367 of the Judicial Code, 28 U.S.C. § 1367(a), which provides supplemental jurisdiction.

5. Personal jurisdiction over Doordash is proper because Doordash is conducting business in this judicial district and committing torts in this state, including without limitation Doordash's trademark infringement, unfair competition, and deceptive trade practices, which cause harm in this state and in this judicial district.

6. Venue properly lies in the judicial district under sections 1391(b) and (c) of the Judicial Code, 28 U.S.C. § 1391(b) and (d), because a substantial portion of the events at issue have arisen and/or will arise in this judicial district and because this Court has personal jurisdiction over Doordash. In a trademark infringement lawsuit, a substantial part of the events giving rise to the claim occurs in any district in which consumers are likely to be confused by the infringing goods or services, whether that occurs in one district or many districts.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

A. Plaintiff's Business and Trademarks

7. GNHR operates a number of popular restaurants in New Hampshire under the following trademarks: COPPER DOOR®, CHEF NICOLE'S® (the "Registered GNHR Marks"), CJ'S™, T-BONES™, and CACTUS JACK'S™ (the "Unregistered GNHR Marks" and

together with the Registered GNHR Marks, collectively, the “GNHR Marks”).

8. GNHR has been using the GNHR Marks continuously for many years in connection with restaurant services and has invested considerable time, money and other resources in connection with the sale and advertising of its restaurant services in connection with the GNHR Marks.

9. The GNHR Marks each serve as unique signifiers of the quality, reputation and goodwill of GNHR in the marketplace.

10. Plaintiff uses its GNHR Marks by displaying them on menus, signage, promotional materials, advertising materials, and websites.

11. Over the years, Plaintiff has invested millions of dollars in the promotion and advertising of goods and services sold under the GNHR Marks in New Hampshire and its surrounding states to create a strong association between Plaintiff’s products and services, its goodwill among consumers and the GNHR Marks.

12. The care and skill exercised by Plaintiff in conducting its business has resulted in the high quality of the products and services offered under its GNHR Marks.

13. As a result of the extensive advertising, sale and promotion of Plaintiff’s products and services, its GNHR Marks have acquired secondary meaning throughout the area whereby the GNHR Marks are widely recognized by the general consuming public in New Hampshire and its surrounding states as signifying Plaintiff as the unique source of the goods and services sold in connection with the GNHR Marks.

14. The GNHR Marks are strong and warrant broad protection in both related and unrelated product and/or service classes.

B. Doordash's Infringing Conduct

15. Upon information and belief, Doordash is a food delivery business that promises its customers speedy delivery from different restaurants located throughout New Hampshire and surrounding states, including GNHR restaurants.

16. GNHR is in no way affiliated with Doordash but, upon information and belief, Doordash causes customers to falsely believe that Doordash has a relationship with GNHR because the GNHR menus and the GNHR Marks appear on Doordash's website and app.

17. In addition, Doordash represents on its website its states "Be a Partner Restaurant," thus implying that every restaurant listed on its website, GNHR included, is a "partner restaurant."

18. Upon information and belief, GNHR customers see GNHR marks and menus at the Doordash website or app and then provide a debit or credit card to Doordash for payment of GNHR goods and services.

19. Upon information and belief, customers pay Doordash directly for GNHR's products and services whereupon Doordash then orders the same products and services from GNHR and pays GNHR when it picks up the food for delivery to customers. However, upon information and belief, the GNHR menus used by Doordash do not always match the menus currently in use at GNHR.

20. Upon information and belief, Doordash does not notify GNHR when delivery drivers employed by Doordash order food from GNHR restaurants. They do not to use the name "Doordash" when picking up orders from GNHR.

21. Upon information and belief, Doordash's use of the GNHR Marks has and is

likely to continue to confuse and mislead consumers into believing that Doordash's services are sponsored by, licensed from or otherwise affiliated with GNHR and Doordash's products and services adhere to the high standards expected from GNHR.

22. Upon information and belief, Doordash's products and services do not adhere to the high standards expected from GNHR, putting GNHR at risk for claims by customers relating to the quality of its food products.

23. GNHR cannot control how Doordash cares for its food products during the delivery process by Doordash. It has no control over the time Doordash spends to make a delivery nor whether Doordash regularly complies with the applicable health and sanitary codes.

24. Doordash places GNHR at risk for customer complaints, which would substantially damage GNHR's business reputation, and would result in irreparable damages and financial loss.

25. Indeed, as a result of Doordash's use of the certain GNHR Marks, the T-BONES® and CJ'S® marks most recently, GNHR has received a number of customer complaints regarding Doordash's services under the mistaken belief the GNHR is responsible for the poor service provided by Doordash.

26. Accordingly, GNHR has on more than one occasion asked Doordash to remove GNHR restaurants from Doordash's website and app.

27. While representatives at Doordash represented that Doordash would cease advertising on its website that it delivered from GNHR restaurants, the problem has been recurring.

28. Upon information and belief, Doordash's use of the GNHR Marks is intentionally and willfully meant to confuse and mislead consumers as to Doordash's affiliation with GNHR

restaurants.

COUNT I
FEDERAL TRADEMARK INFRINGEMENT
(violation of 15 U.S.C. §1114)

29. GNHR incorporates the above paragraphs of the complaint as if separately set forth herein.

30. The Registered GNHR Marks, which are registered with the United States Patent and Trademark Office, are valid and enforceable trademarks exclusively own and continuously used by GNHR.

31. Long after GNHR's first use of the Registered GNHR Marks, Doordash began use of the Registered GNHR Marks in connection with the advertising and promotion of Doordash's restaurant services.

32. GNHR did not authorize Doordash to use the Registered GNHR Marks in connection with the advertising and promotion of Doordash's restaurant services.

33. Upon information and belief, Doordash's unauthorized use of the Registered GNHR Marks will likely cause confusion, mistake, or deception in the relevant consumer market unless Doordash is permanently enjoined.

34. Upon information and belief, Doordash's unauthorized use of the Registered Marks constitutes Trademark Infringement is in violation of 15 U.S.C. §§1114 and 1117.

35. Doordash has acted in bad faith in willfully using the Registered Marks in connection with restaurant services business.

36. Doordash's infringing acts have caused and will continue to cause GNHR to suffer irreparable injuries to its reputation and goodwill. Plaintiff does not have an adequate remedy at law to recover for this harm and is therefore entitled to injunctive relief.

COUNT II
FEDERAL UNFAIR COMPETITION
(violation of 15 U.S.C. §1125(a))

37. GNHR incorporates the above paragraphs of the complaint as if separately set forth herein.

38. Upon information and belief, Doordash's unauthorized use of the Unregistered GNHR Marks in connection with its food delivery services constitutes a false designation of origin, a false or misleading description of fact, and/or false or misleading representation of fact, and has caused and is likely to cause confusion, mistake, and/or deception as to the affiliation, connection or association of GNHR with Doordash, the origin, sponsorship or approval of Doordash's use of the Unregistered GNHR Marks, and the nature, characteristics, or qualities of services offered by Doordash.

39. Doordash's conduct as alleged herein constitutes unfair competition and false designation of origin in violation of section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

40. Doordash's violation of section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) is willful and done in bad faith.

41. GNHR has no adequate remedy at law. If Doordash is not enjoined from further use of the Unregistered GNHR Marks, GNHR will suffer substantial and irreparable injury to its business reputation and the goodwill associated with the Unregistered GNHR Marks.

COUNT III
DECEPTIVE TRADE PRACTICES
(violation of RSA 358-A)

42. GNHR incorporates the above paragraphs of the complaint as if separately set forth herein.

43. Doordash's actions in passing off their services for GNHR's services through the

use of deception constitutes an unfair and deceptive trade practice as defined in RSA 358-A:2, I-III, V.

44. Doordash's actions intentionally misinforms consumer in the New Hampshire marketplace.

45. Such actions are, in addition, sufficiently rascalous to constitute unfair and deceptive acts, notwithstanding the categories in RSA 358-A:2.

46. Doordash's deceptive actions are willful and knowing.

47. Pursuant to RSA 358-A:10, GNHR is entitled to injunctive relief and to the amount of actual damages. Doordash's actions under this statute were willful allowing for Plaintiff to receive up to 3 times, but not less than 2 times, the amount of actual damages and recovery of costs and attorney fees.

PRAYER FOR RELIEF

WHEREFORE Plaintiff prays for the following relief.

A. For judgment that:

1. Doordash has engaged in infringement in violation of 15 U.S.C. 1114;
2. Doordash has engaged in unfair competition in violation of 15 U.S.C. 1125(a);
and
3. Doordash has engaged in deception trade practices in violation of RSA 358-A.

B. For a permanent injunction enjoining Doordash, and any successors or assigns, and its principals, officers, partners, agents, subcontractors, servants, employees, attorneys, affiliates, licensees, subsidiaries and related companies or entities, and all others acting in active concert or participation with it who receive actual notice of the Court's order by personal service or otherwise, from:

1. Using the GNHR Marks, or any simulation, reproduction, copy, colorable imitation or confusingly similar variation of the GNHR Marks in or as part of a design, logo, domain name, or trademark; using any such mark in connection

with the promotion, advertisement, sale, offering for sale, manufacture, production, or distribution of any business, product, or service; and from using any such mark on or as feature of any product;

2. Passing off, inducing, or enabling others to pass off, sell, offer, distribute, disseminate, or otherwise provide any product that bears the GNHR Marks, or any mark that is a simulation, reproduction, copy, colorable imitation, or confusingly similar variation thereof; and
3. Otherwise competing unfairly with GNHR in any manner.

C. For an order that: 1) Defendant account for and pay over to GNHR the amount of any profits realized by Doordash by reason of Defendant's unlawful and willful acts as alleged herein; 2) GNHR be awarded actual damages suffered by reason of Doordash's unlawful and willful acts as alleged herein, including profits realized by Doordash, to be increased by a sum equal to three times the amount thereof as provided by law; 3) GNHR be awarded interest, including prejudgment interest, on all damages sums; 4) GNHR be awarded its costs and reasonable attorney's fees and have such other and further relief as the Court may deem equitable, including, but not limited to, any relief set forth under 15 U.S.C. §§ 1116-1118; and GNHR be awarded actual and punitive damages as provided for under applicable federal and state law.

D. For an order directing, the destruction of all packaging and any printed material, including advertising materials and point-of-sale displays, bearing the GNHR Marks in Defendant's possession or control; and publicly acknowledging the wrongful activities alleged herein.

E. For an order directing Doordash to file with the Court and serve upon GNHR within thirty (30) days after service of the injunction upon Doordash, a report in writing and under oath setting forth in detail the manner and form in which Doordash has complied with the injunction.

F. For such other and further relief as the Court shall deem appropriate.

JURY DEMAND

GNHR hereby demands a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: February 24, 2020

Respectfully submitted,

By: /s/ R. Terry Parker

RATH, YOUNG AND PIGNATELLI P.C.

R. Terry Parker, Esq.

One Capital Plaza

Concord, New Hampshire

Tel.: (603) 226-2600

Email: rtp@rathlaw.com

Attorneys for Plaintiff

Great New Hampshire Restaurants, Inc.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

| | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|---|--|--|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY | CIVIL RIGHTS | PRISONER PETITIONS | FEDERAL TAX SUITS | |
| <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | |
| | | LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act | IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | |

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

02/16/2021

Dear Committee Members

My name is Michael Buckley, and I am the President of Michael Timothy's Dining Group
Which manages six food service establishments in the state of NH.
I am submitting testimony in support of HB 593

Although there is an obvious consumer demand for these type of services our experience has
been Grub Hub, Door Dash etc have put our menus and logos on their website representing us
without our permission.

This can be damaging to our reputation and brand as they do not provide the level of service
that our brand is known for.
They have inaccurate menus posted that have caused customer complaints in the past, and
make us look bad.

Studies have shown that as much as 30% of the food handled by these food delivery companies
the food has been tampered with (ie the driver snacking on fries while driving)
The drivers are independent contractors with no oversight and no knowledge of food safety.
I believe they should not represent us without a written contract.

Respectfully
Michael T. Buckley

Archived: Wednesday, April 14, 2021 1:07:45 PM

From: Thomas Boucher

Sent: Friday, February 26, 2021 3:36:20 PM

To: ~House Commerce Committee

Subject: HB593

Importance: Normal

Attachments:

ECF 1) Complaint.pdf ;ECF 1) Complaint.pdf ;

Hello,

I am writing to request you support HB593. These third party delivery services are using wrong information and allowing guests to order and be charged more than our menu prices without ever entering into an agreement with the restaurant. In fact our company was so fed up with them in 2019 after continuously putting wrong information on their sites; making mistakes; not showing up; re repeatedly asked them to take us off their site. They refused so we filed a law suit against both Grub Hub and Door Dash and both companies settled and agreed to take us off their sites.

https://www.unionleader.com/news/business/great-nh-restaurants-seeking-to-block-doordash-grubhub-with-lawsuit/article_fb0b19f9-3ef6-528f-b220-e2d88caddb4c.html

These companies will continue to disobey requests from restaurants until they are sued. This legislation is needed to stop these predator companies. Thank you.

Best,

Tom Boucher

CEO-Owner

[Great NH Restaurants, Inc.](#)

[T-BONES](#) | [CJ's](#) | [Cactus Jack's](#) | [Copper Door](#)

124 Bedford Center Rd | Bedford , NH 03110

603-488-2820



Archived: Wednesday, April 14, 2021 1:07:45 PM

From: [Michael Buckley](#)

Sent: Tuesday, February 16, 2021 8:49:15 AM

To: ~[House Commerce Committee](#)

Subject: NH House Remote Testify: 9:00 am - HB593 in House Commerce and Consumer Affairs

Importance: Normal

Attachments:

[HB 593.docx](#) 

Please see attached

Archived: Wednesday, April 14, 2021 1:07:45 PM
From: [Joyce Weston](#)
Sent: Sunday, February 28, 2021 6:51:42 PM
To: [Ed Butler](#)
Cc: [~House Commerce Committee](#)
Subject: Re: From Ed Butler about HB593
Importance: Normal

We have gotten many other responses from restaurant owners that express the same opinion. Good to hear from you, Ed. Thanks for your response.

Sent from my iPhone
Joyce Weston
603-276-0862

On Feb 28, 2021, at 6:25 PM, Ed Butler <edofthenotch@gmail.com> wrote:

Hello Commerce Committee Members,

As some of you know, I'm an innkeeper and we have a small restaurant. As such we are members of two lodging and restaurant groups – the [NHLRA](#) (Lodging and Restaurant Association) and the [Valley Originals](#), a group of over 20 locally owned and operated restaurants in the Mount Washington Valley.

Our inn does not deliver dinners but when I saw this bill I asked other local restaurant owners what they think of it. All I talked to are in favor of it. They seem to think that it is a sensible measure to help protect restaurateurs and clarify the relationship with the delivery service.

I hope that the hearing on this bill will encourage you to support it.

Thanks,
Ed

Ed Butler, Innkeeper

[The Notchland Inn](#)

Secluded – yet near to all The Mount Washington Valley has to offer.

800-866-6131

603-374-6131

Archived: Wednesday, April 14, 2021 1:07:45 PM
From: [Ed Butler](#)
Sent: Sunday, February 28, 2021 6:25:25 PM
To: [~House Commerce Committee](#)
Subject: From Ed Butler about HB593
Importance: Normal

Hello Commerce Committee Members,

As some of you know, I'm an innkeeper and we have a small restaurant. As such we are members of two lodging and restaurant groups – the [NHLRA](#) (Lodging and Restaurant Association) and the [Valley Originals](#), a group of over 20 locally owned and operated restaurants in the Mount Washington Valley.

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I hope that the hearing on this bill will encourage you to support it.

Thanks,
Ed


Ed Butler, Innkeeper

[The Notchland Inn](#)

Secluded – yet near to all The Mount Washington Valley has to offer.

800-866-6131

603-374-6131

Archived: Wednesday, April 14, 2021 1:11:45 PM
From: Christy Bartlett
Sent: Tuesday, March 2, 2021 12:22:56 PM
To: ~House Commerce Committee
Subject: Fwd: HB 593 - 2021-0582h, Christy Bartlett
Importance: Normal
Attachments:
[HB 593 - 2021-0582h.pdf](#) 

Here's the correct amendment for HB 593.

It changes the effective date to Upon Passage, but adds a "sunset clause" of 12/31/2023 to provide time to see whether the problem was fixed and whether the law needs to continue.

Rep. Christy Dolat Bartlett
Commerce & Consumer Affairs Committee
Merrimack District 19
Concord
FB Group: Christy Bartlett for NH State Rep

----- Forwarded message -----
From: AskOLS <AskOLS@leg.state.nh.us>
Date: Tue, Mar 2, 2021 at 12:20 PM
Subject: HB 593 - 2021-0582h, Christy Bartlett
To: Christy Bartlett <christydbartlett@gmail.com>

Attached please find a PDF of amendment 2021-0582h to HB 593 requested by Rep. Christy Bartlett.

Please note that the amendment copy contains the "UNAPPROVED" watermark. Once OLS is notified that the amendment has been officially adopted by committee action, OLS will remove the watermark and release the amendment to the Clerk.

Sincerely,

Office of Legislative Services

State House, Rm 109

603-271-3435

Archived: Wednesday, April 14, 2021 1:11:45 PM

From: [Michael Buckley](#)

Sent: Tuesday, February 16, 2021 8:49:15 AM

To: ~[House Commerce Committee](#)

Subject: NH House Remote Testify: 9:00 am - HB593 in House Commerce and Consumer Affairs

Importance: Normal

Attachments:

[HB 593.docx](#) 

Please see attached

Archived: Wednesday, April 14, 2021 1:11:45 PM

From: Max Abramson

Sent: Tuesday, March 2, 2021 1:23:17 PM

To: ~House Commerce Committee

Subject: Fw: HB 593

Importance: Normal

OLS's words on new penalties. We COULD make them take effect upon the Governor's signature.

However, I maintain that this would be very bad practice, as you could have one law telling people that they have to do something that another law/bill tells them that they can't. The enforcing agency also has to update their paperwork, and they sometimes find contradictions that we/they have to resolve later in the session.

Rep. Max Abramson

Free Chad Evans. There is justice in Heaven, and there is justice in Hell. Both are therefore a law abider's utopia's compared to this monstrosity that our taxpayers are compelled to prop up.

"The problem isn't that Johnny can't read. The problem isn't even that Johnny can't think. The problem is that Johnny doesn't know what thinking is; he confuses it with feeling." --Thomas Sowell

"It is better to take refuge in the Lord than to trust in man." --Psalms 118:8

Sent: Tuesday, March 02, 2021 at 1:18 PM

From: "Courtney Eschbach" <Courtney.Eschbach@leg.state.nh.us>

To: "MaxAbramson@gmx.com" <MaxAbramson@gmx.com>

Subject: HB 593

Good afternoon Rep. Abramson: Generally speaking we like to have an effective date of January 1 of the following year for new penalties, but its up to the sponsor's discretion. Which would you like?

Courtney Eschbach, Esq

Drafting Attorney
Office of Legislative Services

State House Room 110

107 N. Main Street

Concord, NH 03301

(603) 271-3435

Courtney.eschbach@leg.state.nh.us

Archived: Wednesday, April 14, 2021 1:11:45 PM

From: dean@cafenostimo.com

Sent: Saturday, February 27, 2021 5:08:20 PM

To: ~House Commerce Committee

Subject: Bill number, HB 593 - requiring a food delivery service to enter into an agreement with a restaurant before offering delivery service from that restaurant.

Importance: Normal

NH House Commerce Committee,

My name is Dean Zottos and I am the Managing Member of Nostimo Restaurant Group in Portsmouth, NH. The passing of **Bill number, HB 593 – requiring a food delivery service to enter into an agreement with a restaurant before offering delivery service from that restaurant** is very important to me and so many restaurants across NH.

Third party delivery companies have come into this State and have hijacked our businesses, creating an on-line presence representing us in an unauthorized manner. I have spent hard-earned money for attorneys to send cease and desist orders to these companies many of which conduct their business through overseas call centers like DoorDash.

They replicate our menus, offer delivery and represent us in a poor fashion. They even hijack our google and yelp pages and offer delivery! For 38 years doing business in NH I choose to control my own destiny and I choose to control the customer experience. These companies are mis-representing us and the consumer thinks that we have contracted with them. A late delivery through a company like this reflects negatively on OUR REPUTATION. The reputation of our businesses should be our issue to control not a third party unauthorized company.

Please protect our businesses.

Thank you,
Dean S Zottos

Archived: Wednesday, April 14, 2021 1:11:45 PM
From: [Nicole Carrier](#)
Sent: Friday, February 26, 2021 4:03:47 PM
To: [~House Commerce Committee](#)
Cc: [Annette Lee](#)
Subject: HB 593
Importance: Normal

To whom it may concern - HB 593 – requiring a food delivery service to enter into an agreement with a restaurant before offering delivery service from that restaurant - is incredibly important to restaurants. Thirty minutes ago, a very angry customer just showed up here looking for his late GrubHub order. We responded that we aren't on GrubHub and that we never received his order. He gave them almost \$50 for food he never received. We went on GrubHub to investigate, and, sure enough, there was our menu. 50% of it was incorrect. In fact, the customer ordered a gazpacho from us, something we only have for a week or two in the summer when the tomatoes have hit peak season. These food delivery service providers are doing damage to restaurants. They are mis-representing us. They are angering customers, which gets mis-directed at us, who have NOTHING to do with the issues. PLEASE pass this bill.

Cheers

--Nicole
Co-founder and President, [Throwback Brewery](#)

Facebook: <http://www.facebook.com/ThrowbackBrewery>
Twitter: [@thrbck](#) **Untappd:** [ThrowbackBrewery](#)
Instagram: [thrbck](#)

Archived: Wednesday, April 14, 2021 1:11:45 PM
From: [Keri Laman](#)
Sent: Friday, February 26, 2021 4:03:29 PM
To: [~House Commerce Committee](#)
Subject: HB 593
Importance: Normal

Good afternoon and thank you for reading my email.
As the owner of several café in the State, I request your support in requiring food service delivery companies to enter into an agreement with a café or restaurant.

It's disconcerting when another organization or individual appears to represent you to a customer/client.

There are no real avenues for addressing their behavior, hygiene or service levels. We have no control over what happens to our food once it leaves in their hands and how they present it to our customers. I don't believe that the customers distinguish between us, and for them to upcharge in the amounts they do is absurd.

Thank you
Keri Laman

250 Commercial Street, Suite 2021
Manchester, NH 03101
P: 603-668-6111
W: tidewatercatering.com

Host your next event at the **Riverside Room**, riversideroomnh.com 603-668-6111
Surround yourself with the beauty of a restored historic mill venue

Waterworks Café, waterworkscafe.com Serving Breakfast and Lunch: Monday-Saturday
Unity Café, unitycafe.com Serving Breakfast and Lunch: Monday-Friday
ONLINE ORDERING AND DELIVERY AVAILABLE

Archived: Wednesday, April 14, 2021 1:11:45 PM

From: [General Account](#)

Sent: Friday, February 26, 2021 3:57:39 PM

To: [~House Commerce Committee](#)

Subject: Re: Bill number, HB 593

Importance: Normal

As a NH restaurant owner, I cannot stress the need for agreements between restaurants and delivery services. As a business in a trying time, we have experienced delivery services post inaccurate menus and try to take and place orders on customers behalf. We've listened as other local business owners struggled and said yes, afraid to lose business, at a compromise to brand.

Requiring agreements between businesses in partnership could prove to alleviate miscommunication, would allow restaurants to negotiate their terms and would protect product quality.

Thank you,

Ben Lord

Chapel+Main Brewpub
603-842-5170
Dover NH
03820

Archived: Wednesday, April 14, 2021 1:11:45 PM

From: [Michael McDonough](#)

Sent: Friday, February 26, 2021 3:49:00 PM

To: ~House Commerce Committee

Subject: HB 593 Food Delivery Companies

Importance: Normal

Please consider supporting this bill. We have had several challenges with companies such as Uber eats and door dash where they by pass an agreement with our restaurants to offer delivery on our behalf. It forces us to compete with ourselves as we offer free delivery as it is. They often offer an old menu and take an extraordinarily long time to deliver which reflects poorly on us. I have tried to cancel their services multiple times but they never respond.

Thank you for your consideration.

Mike McDonough

Fratellos and the Homestead Restaurants

Sent from my iPhone

Archived: Wednesday, April 14, 2021 1:11:45 PM
From: Sean Kelly
Sent: Friday, February 19, 2021 5:08:01 PM
To: ~House Commerce Committee
Subject: In Support of HB 593
Importance: Normal

To the honorable NH House Commerce Committee Members,

Please consider this email as our way of indicating our Brewpub's support of HB 593 which would require a food delivery service to enter into an agreement with a restaurant before offering delivery service from that restaurant.

Thank you,
Sean Kelly
Co-Owner, Member

Stripe Nine Brewing Co., LLC
8 Somersworth Plaza
Somersworth, NH 03878
(603) 841-7175

REQUIRING THIRD PARTY DELIVERY COMPANIES TO HAVE AGREEMENTS WITH RESTAURANTS BEFORE DELIVERING THEIR FOOD: This past week, Tom Boucher of Great NH Restaurants, testified in support of [HB 593](#) before the House Commerce Committee. The bill would require a food delivery service to enter into an agreement with a restaurant before offering delivery service from that restaurant. NHLRA supports this bill. NHLRA members are encouraged to contact House Commerce Committee members to express your support for the bill. You can email the committee members at HouseCommerceCommittee@leg.state.nh.us

Best regards,
Sean

Fiscal Notes

LBA
21-0818
Revised 2/18/21

**HB 593-FN FISCAL NOTE
AS INTRODUCED**

AN ACT requiring a food delivery service to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant.

FISCAL IMPACT: State County Local None

METHODOLOGY:

This bill requires a food delivery service to enter into an agreement with a food service establishment or food retail store before offering delivery service. It amends RSA 359 by adding new Chapter RSA 359-S relative to food delivery platforms, defined 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 arrange for the delivery of the order from the food service establishment or retail food store to the consumer. Also, the bill would impose a \$100 fine to any food delivery platform for any delivery made without the required agreement as required by the legislation.

The bill contains no affirmative obligation for the Department of Health and Human Services to enforce the provisions of the legislation, and consequently, the Department does not anticipate any fiscal impact.

AGENCIES CONTACTED:

Department of Health and Human Services

Bill as
Introduced

HB 593-FN - AS INTRODUCED

2021 SESSION

21-0818

08/05

HOUSE BILL ***593-FN***

AN ACT requiring a food delivery service to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant.

SPONSORS: Rep. Wilhelm, Hills. 42; Rep. Chretien, Hills. 42; Rep. Oxaal, Straf. 15; Rep. Moran, Hills. 34

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill requires a food delivery service to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT requiring a food delivery service to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Chapter; Food Delivery Platform. Amend RSA by inserting after chapter 359-R the
2 following new chapter:

3 CHAPTER 359-S

4 FOOD DELIVERY PLATFORM

5 359-S:1 Food Delivery Platforms.

6 I. In this chapter:

7 (a) "Food delivery platform" means an online business that acts as an intermediary
8 between consumers and multiple food facilities to submit food orders from a consumer to a
9 participating food facility, and to arrange for the delivery of the order from the food service
10 establishment or retail food store to the consumer.

11 (b) "Food service establishment" has the same meaning as RSA 143-A:3, IV.

12 (c) "Retail food store" has the same meaning as RSA 143-A:3, VII.

13 II. A food delivery platform shall not arrange for the delivery of an order from a food service
14 establishment or retail food store without first obtaining an agreement with the food service
15 establishment or retail food store expressly authorizing the food delivery platform to take orders and
16 deliver meals prepared by the food service establishment or retail food store.

17 III. Any food delivery platform that violates this chapter shall be guilty of a violation and
18 fined \$100 for each delivery made without the agreement required in paragraph II.

19 2 Effective Date. This act shall take effect January 1, 2022.

LBA
21-0818
1/13/21

**HB 593-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT requiring a food delivery service to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill, as introduced, as it is awaiting information from the Department of Health and Human Services. When completed, the fiscal note will be forwarded to the House Clerk's Office.

AGENCIES CONTACTED:

Department of Health and Human Services