

ORDINANCE 71193

BOARD BILL NUMBER 27 AS AMENDED INTRODUCED BY ALDERWOMAN CHRISTINE INGRASSIA/ALDERWOMAN MEGAN GREEN/ALDERWOMAN SHAMEEM CLARK-HUBBARD / ALDERWOMAN ANNIE RICE/ ALDERWOMAN HEATHER NAVARRO/ ALDERWOMAN LISA MIDDLEBROOK/ ALDERWOMAN CARA SPENCER/ALDERWOMAN BETH MURPHY/ALDERWOMAN MARLENE DAVIS/ALDERMAN SHANE COHN/ALDERMAN OLDENBURG/ALDERMAN BRET NARAYAN

1 An ordinance imposing caps on fees and commissions charged by third-party delivery services;
2 requiring third-party delivery services to obtain a business license; requiring third-party delivery
3 services to disclose policies regarding base wage and gratuities for delivery workers and
4 preventing third-party delivery services from reducing base pay or gratuities for delivery drivers;
5 containing a penalty clause, a severability clause and an emergency clause.

6 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

7 **SECTION ONE. Definitions.** For the purposes of this ordinance, the following terms have the
8 following meanings:

9 “*Base Wage*” means any money paid, whether by the hour or otherwise, to a delivery driver by a
10 third-party delivery service, in exchange for work performed, but not including gratuities, bonuses,
11 allowances, shift differentials, or any other monetary payments that may contribute to a delivery
12 driver’s total compensation.

13 “*Covered Establishment*” means any business establishment that offers a single commercial
14 transaction over the internet, whether directly or through a third-party delivery service, the sale
15 and same-day delivery of food and beverage items, or goods to customers from one or more retail
16 locations within the city.

1 “*Third Party Fees*” means any and all fees or commissions charged to a business establishment
2 by a third-party delivery service, including but not limited to: advertising, promotions, delivery,
3 sales processing, and/or credit card processing.

4 “*Delivery worker*” means a person engaged by a third-party delivery service or covered
5 establishment for the purpose of delivering online orders.

6 -“*Business Establishment*” shall have the same meaning as prescribed for the term “food
7 establishment” as codified in Chapter 11.42.040 - Section 1-201.10 - Amended (1) of the Revised
8 Code of the City of St. Louis and/or the same meaning as prescribed for the term “merchant” as
9 codified in Chapter 8.56.010 of the Revised Code of the City of St. Louis.

10 “*Goods*” means any merchandise, product or ware offered for sale, including but not limited to
11 food products, groceries, meals and non-food products.

12 “*Gratuity*” means a sum of money, paid voluntarily by a customer, when or after placing an online
13 order directly from a covered establishment or through a third-party ~~food~~ delivery service that is
14 in addition to the price of such goods and other charges such as taxes and fees, where such
15 voluntary sum is paid through website, mobile application, or similar platform that allows the
16 customer to choose the amount of the voluntary sum and that refers to the sum as a gratuity or tip,
17 or by another, similar name that would suggest to a reasonable person that the sum, or a substantial
18 portion thereof, would be received by the delivery worker in addition to their base wage.

1 “*Online Order*” means an order placed by a customer through a platform provided by a third party
2 delivery service or covered business establishment.

3 “*Purchase price*” means the menu price of a food or beverage, or goods order from a covered
4 establishment, excluding taxes, gratuities and any other fees that may make up the total cost of a
5 customer’s online order.

6 “*Third-Party Delivery Service*” means any website, mobile application, or similar platform that
7 offers or arranges for the sale of food, beverages, and/or goods and same day delivery or same-
8 day pickup from no fewer than twenty (20) separately owned and operated business
9 establishments.

10 **SECTION TWO.** Third-Party Fees. For 60 days after a proclamation signed by the Mayor of
11 the City of St. Louis under Article XIII, Section 14 C of the St. Louis City Charter has been lifted,
12 it shall be unlawful for a third-party delivery service to charge covered establishments located in
13 the City of St. Louis third party fees and/or commissions totaling more than 20% of the total
14 purchase price of each online order.

15 **SECTION THREE.** Business License. It shall be unlawful for a third-party delivery service to
16 conduct business with business establishments located in the City of St. Louis without first having
17 obtained a business license from the City of St. Louis’ License Collector. Applications for
18 third-party delivery service licenses and any renewals thereof shall be made to the License

1 Collector in such form and in such manner as the License Collector shall prescribe by written
2 policy.

3 **SECTION FOUR.** Base Pay, Gratuities, and Payment to Delivery Drivers.

4 A. Before or at the same time as a gratuity is solicited from a customer in connection with an online
5 order placed directly with a covered establishment or through a third-party delivery service as the
6 case may be, shall disclose using plain language and in a manner calculated to provide clear notice
7 to the customer of the following information regarding the covered establishment and/or third-
8 party delivery service's policies regarding gratuities for delivery workers:

- 9 1. The proportion or fixed amount of each gratuity that is distributed to the worker who
10 delivered the online order, including whether such gratuity is required to be shared with
11 other workers.
- 12 2. The amount of each gratuity that is used to compose each delivery worker's base wage
13 unless 0% of the gratuity is used to compose each delivery worker's base wage.

14 B. It shall be unlawful for a third-party delivery service to misstate or misrepresent any information
15 required to be disclosed pursuant to this section, or otherwise fail to comply with the disclosure
16 requirements of this section.

1 C. It shall be unlawful for a third-party delivery service to reduce the base rate or gratuities paid
2 to the delivery driver as a result of the requirements of this ordinance.

3 **SECTION FIVE.** Exemptions. Any third-party delivery service with its only place of operation
4 located within the City of St. Louis and providing services to no more than forty (40) separately
5 owned and operated covered establishments shall be exempt from this ordinance.

6 **SECTION SIX.** Severability Clause.

7 The provisions of this ordinance shall be severable. In the event that any provisions of this
8 ordinance is found by a court of competent jurisdiction to be unconstitutional, the remaining
9 provisions of this ordinance are valid unless the court finds the valid provisions of this ordinance
10 are so essentially and inseparably connected with, and so dependent upon, the void provision that
11 it cannot be presumed the Board of Alderman would have enacted the valid provisions without the
12 void ones or unless the Court finds the valid provisions, standing alone, are incomplete
13 and incapable of being executed in accordance with the legislative intent.

14 **SECTION SEVEN.** Emergency Clause.

15 This being an ordinance for the preservation of public peace, health and safety, it is hereby declared
16 to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter

- 1 of the City of St. Louis and therefore this ordinance shall become effective immediately upon its
- 2 passage and approval by the Mayor.