



CITY COUNCILMEMBER
RIGEL ROBINSON
DISTRICT 7

11

CONSENT CALENDAR
March 23, 2021

To: Honorable Mayor and Members of the City Council
From: Councilmember Rigel Robinson (Author) and Councilmember Rashi Kesarwani (Co-Sponsor)
Subject: Support for AB 286: Food Delivery Platform Fees and Commissions

RECOMMENDATION

Send a letter to Assemblymember Lorena Gonzalez, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 286, which would establish equitable standards in the food delivery industry by capping service fees, requiring food delivery platforms to provide accurate transaction breakdowns, and prohibiting the collection of delivery driver tips by the delivery company.

BACKGROUND

AB 286, introduced by Assemblymember Lorena Gonzalez, would do the following:

- (1) Cap the service fee charged by food delivery platforms to restaurants at 15% of the menu item price, not including any tips, gratuities, or taxes that factor into the total amount paid by the customer.
- (2) Require food delivery platforms to provide an accurate and transparent itemization of each transaction for both customers and partnered restaurants.
- (3) Prohibit the delivery platform companies from pocketing any amount of the money customers intended as a tip/gratuity for the delivery driver.

While the pandemic has been financially devastating for many businesses, third-party food delivery companies, such as DoorDash and Postmates, have been profiting. However, their profits have come at the expense of charging restaurants, already struggling economically, with excessive fees and commissions for their services. The 15% cap on commission fees called for by AB 286 is almost half of what some food delivery platforms are currently charging restaurants, with some delivery apps charging up to 33%.¹ These third-party food delivery companies are multi-billion dollar corporations whose practices are hurting food facilities and restaurants of a smaller scale.²

¹ <https://www.sandiegouniontribune.com/business/story/2021-01-22/san-diego-council-members-call-for-cap-on-fees-restaurants-are-charged-by-food-delivery>

² <https://a80.asmdc.org/press-releases/new-assemblywoman-gonzalez-bill-sets-statewide-cap-fees-charge>

This legislation is a step towards creating a more equitable industry for restaurants and food delivery platforms. Specifically, it is a continuation of the effort initiated by Assemblymember Gonzalez last year to establish fair standards in the food delivery industry with the Fair Food Delivery Act (AB 2149), which required third-party delivery platforms to first establish agreements with any restaurant they would like to deliver food for.

In December 2020, Council imposed a cap of 10% for delivery and 5% for other fees in order to help alleviate the financial strain that the COVID-19 pandemic has placed upon restaurants.³ Cities such as Los Angeles and San Francisco have also passed similar legislation.

AB 286 would act as a serviceable relief for businesses struggling to choose between high commission fees from delivery platforms and shutting down without a way to safely serve customers.

Therefore, the Berkeley City Council should support AB 328 and send the attached letter of support to Assemblymember Lorenza Gonzalez, Senator Nancy Skinner, and Assemblymember Buffy Wicks.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170
Crystal Choi, Intern

Attachments:

1: Letter of support

2: Bill text

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB286

³ [https://www.cityofberkeley.info/Clerk/City_Council/2020/12_Dec/Documents/2020-12-01_Item_22_Amending_Berkeley_Municipal_Code_13_111_020\(a\).aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/12_Dec/Documents/2020-12-01_Item_22_Amending_Berkeley_Municipal_Code_13_111_020(a).aspx)

March 23, 2021

The Honorable Lorena Gonzalez
Assemblymember, 80th District
State Capitol, Room 2114
Sacramento, CA 94249

RE: City of Berkeley's Support for Assembly Bill 286

Dear Assemblymember Gonzalez,

The Berkeley City Council would like to convey our full support for Assembly Bill 286, which would help protect family restaurants and other small businesses from billion-dollar app-based delivery companies that are taking advantage of the COVID-19 pandemic to engage in predatory business practices.

The City of Berkeley has already imposed a local cap on service fees, but state action is required to ensure that all restaurants and gig economy workers across California have equal and adequate protections. The impacts of the COVID-19 pandemic make this legislation all the more needed, as public health closures of in-person dining have made struggling restaurants heavily reliant on takeout and delivery options.

Prohibiting corporate pocketing of driver tips, capping service fees, and enforcing transactional transparency are crucial measures that would help keep California's treasured small businesses afloat during these challenging times. The Berkeley City Council supports AB 286 and thanks you for taking the lead on this important issue.

Sincerely,

The Berkeley City Council

CC: Senator Nancy Skinner
Assemblymember Buffy Wicks

