



Legislation Details (With Text)

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**Final Action:**    **Ord. No.**

**Title:** A RESOLUTION modifying the April 24, 2020, emergency order relating to capping restaurant delivery and pick-up commission fees.

**Sponsors:** M. Lorena González

**Indexes:**

**Attachments:** 1. Ex A - Emergency Order Issued April 24, 2020, 2. Ex B - Modified Emergency Order, 3. Summary and Fiscal Note v2, 4. Summary and Fiscal Note v1, 5. Proposed Substitute, 6. Signed Resolution 31945, 7. Affidavit of Publication

Date	Ver.	Action By	Action	Result
4/27/2020	2	City Clerk	attested by City Clerk	
4/27/2020	1	City Council	adopted as amended	Pass
4/27/2020	1	City Council	referred	
4/27/2020	1	Council President's Office	sent for review	
4/27/2020	1	City Clerk	sent for review	

CITY OF SEATTLE

RESOLUTION \_\_\_\_\_

A RESOLUTION modifying the April 24, 2020, emergency order relating to capping restaurant delivery and pick-up commission fees.

WHEREAS, the World Health Organization (WHO) has declared that COVID-19 disease is a global pandemic, which is particularly severe in high-risk populations such as people with underlying medical conditions and the elderly, and the WHO has raised the health emergency to the highest level, requiring dramatic interventions to disrupt the spread of this disease; and

WHEREAS, on February 29, 2020, Governor Jay Inslee declared a statewide state of emergency in response to outbreaks of COVID-19 in Washington; and

WHEREAS, on March 3, 2020, the Mayor proclaimed a civil emergency related to the spread of COVID-19, authorizing the Mayor to exercise the emergency powers necessary for the protection of the public

peace, safety, and welfare; and

WHEREAS, on March 5, 2020, the Council adopted Resolution 31937 affirming the civil emergency, modifying orders transmitted by the Mayor related to the emergency, and establishing Council's expectations related to future orders and reporting by the Mayor during the civil emergency; and

WHEREAS, as of April 23, 2020, Public Health-Seattle & King County announced a total of 5,427 cases of COVID-19 in King County residents, including 379 deaths; and

WHEREAS, on March 23, 2020, Governor Inslee issued Proclamation 20-25, Stay Home - Stay Healthy, prohibiting all people in Washington State from leaving their homes or participating in social, spiritual, or recreational gatherings of any kind regardless of the number of participants, except to conduct or participate in essential activities and/or for employment in essential business services; and

WHEREAS, while restaurants are deemed an essential business, to reduce the spread of the virus and protect the public health, the Stay Home - Stay Healthy Order prohibits restaurants in Seattle from offering dine-in service, limiting restaurants to delivery and takeout only; and

WHEREAS, the COVID-19 crisis has had a significant impact on the local economy, impacting the retail, restaurant, construction, gig economy, and other industries, and resulting in loss of income for small businesses; and

WHEREAS, a survey conducted in late March by the National Restaurant Association of 5,000 restaurant owners and operators found that: sales were down 47 percent from March 1 to March 22; 54 percent of restaurant owners have switched to take-out or delivery service only; seven in ten operators have had to lay off employees and reduce the number of hours worked, and roughly half anticipate more layoffs and reductions in hours over the next 30 days; three percent of restaurant operators have permanently closed their restaurant; and 11 percent of operators anticipate permanently closing within 30 days; and

WHEREAS, the Washington State Employment Security Department reported, based on a survey by the Bureau of Labor Statistics, that the number of jobs in food services and drinking places decreased by

11,300 from February 2020 to March 2020; and

WHEREAS, Seattle has over 4,000 active business licenses for restaurants, caterers, and other businesses in the food industry; and

WHEREAS, the 2016 Annual Survey of Entrepreneurs estimates that nearly 48 percent of the firms in the accommodation and food services industry in the Seattle metropolitan area are owned by black, indigenous, and people of color; and

WHEREAS, the economic disruptions to restaurants caused by COVID-19 have placed a sudden and severe financial strain on many restaurants and will increase the likelihood of restaurants struggling to meet existing financial commitments and remain open during and after the COVID-19 crisis; and

WHEREAS, many consumers are eager to support local restaurants and use third-party, app-based delivery services to place orders with those restaurants, and these third-party platforms charge delivery service fees to restaurants based on the purchase price; and

WHEREAS, while service agreements between restaurants and third-party delivery service companies vary, all of these agreements include delivery service fees and most agreements include commission fees, sometimes in excess of 30 percent of the purchase price; and

WHEREAS, restaurants, particularly small, family-owned restaurants with few locations, have limited bargaining power to negotiate lower fees with third-party, app-based delivery service companies, due to only a few companies existing in the marketplace to provide such delivery services, and because take-out and delivery are the only options to keep the business in operation during the COVID-19 pandemic; and

WHEREAS, the U.S. Small Business Administration's Paycheck Protection Program (PPP) is an important step to provide relief to the restaurant industry, but as currently designed it does not address the unique and evolving challenges of the restaurant industry and their path to recovery, resulting in a growing number of restaurant owners concluding that the PPP is not going to prevent them from permanently closing

operations, underscoring the need for other actions, such as capping restaurant delivery and pick-up commission fees, to provide some financial relief to the industry; and

WHEREAS, capping delivery and pick-up commission fees to a maximum of 15 percent of the purchase price on delivery or pick-up orders while restaurants are unable to provide unrestricted dine-in service will make it feasible for more restaurants to transition to take-out and delivery service, allowing some restaurants that have been closed during the COVID-19 crisis to reopen; and

WHEREAS, it is the intent of the City Council to support actions that provide a quick response to the rapidly shifting needs of local, small, and minority- and woman-owned businesses during this unprecedented crisis; and

WHEREAS, it is in the public interest to take action by emergency order to ensure that restaurants in Seattle are able to maximize revenue from takeout and delivery orders that are currently the sole source of revenue for these small businesses and to help restaurants, that were already operating on thin margins, survive this COVID-19 crisis, remain as sources of employment, allowing them to continue to serve and contribute to the identity of their communities; and

WHEREAS, Seattle Municipal Code subsection 10.02.020.B provides that the Seattle City Council can either ratify and confirm, modify, or reject such an emergency order; NOW, THEREFORE,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE THAT:**

Section 1. The Civil Emergency Order relating to restaurant delivery and pick-up commission fees issued by Mayor Jenny A. Durkan, dated April 24, 2020, attached to this resolution as Exhibit A, is modified, as shown in Exhibit B.

Adopted by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and signed by me in open session in authentication of its adoption this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_

President \_\_\_\_\_ of the City Council

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

**Attachments:**

Exhibit A - Emergency Order Issued April 24, 2020

Exhibit B - Modified Emergency Order