



NATIONAL ASSEMBLY OF QUÉBEC

SECOND SESSION

FORTY-SECOND LEGISLATURE

Bill 798

**An Act to permanently limit the
amount of certain charges payable by
restaurateurs when they retain the
delivery services of a third person**

Introduction

**Introduced by
Madam Ruba Ghazal
Member for Mercier**

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EXPLANATORY NOTES

The purpose of this bill is to limit the amount of certain charges payable by restaurateurs when they retain the delivery services of a third person.

To that end, the bill provides that at no time may a third person who provides delivery services to a restaurateur charge that restaurateur, as a delivery charge, an amount exceeding 15% of the total amount of the order. It also limits the amount a third person may charge a restaurateur, as a charge for the supply of information technology-based services that allow a patron to place an order, by capping it at 5% or 10% of the total amount of the order, depending on whether the delivery is carried out for the restaurateur by the third person or not. It further prohibits a third person who entrusts a delivery activity to a person from reducing the amounts they pay that person as remuneration or other payment in order to comply with the limitation of charges established.

In addition, the bill gives a restaurateur or a person to whom a third person entrusts a delivery activity the possibility of filing a complaint with the Minister of Agriculture, Fisheries and Food if the amounts charged to the restaurateur exceed the limits provided for or if the remuneration of the person making the delivery is reduced.

The Minister is also given the power to conduct investigations or commission a person the Minister designates to conduct an investigation on any matter relating to the application of the bill. It also gives the Minister the power to order a third person, once a complaint has been processed or an investigation has been concluded, to reduce any amounts that the third person charges a restaurateur or restore a delivery person's remuneration.

Lastly, the bill creates penal offences to ensure that the measures it puts in place are applied.

LEGISLATION REPEALED BY THIS BILL:

– Act to limit certain charges in the restaurant industry (2021, chapter 4).

Bill 798

AN ACT TO PERMANENTLY LIMIT THE AMOUNT OF CERTAIN CHARGES PAYABLE BY RESTAURATEURS WHEN THEY RETAIN THE DELIVERY SERVICES OF A THIRD PERSON

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

1. The purpose of this Act is to limit the amount of certain charges payable by restaurateurs when they retain the delivery services of a third person.

A third person is considered to provide delivery services to a restaurateur if that person takes measures to ensure that such services are provided to the restaurateur or if the person facilitates their provision.

2. For the purposes of this Act, “restaurateur” means the operator of a business whose main activity is selling or serving meals or refreshments, in a restaurant, to its patrons.

In addition, delivery services include technology-based services that allow patrons to order meals or refreshments from a restaurateur.

CHAPTER II

LIMITATION OF CHARGES

3. A third person who provides delivery services to a restaurateur may charge the restaurateur only the following amounts:

(1) as a delivery charge, an amount not exceeding 15% of the total amount of the order if the delivery is carried out by the third person or in that person’s name; and

(2) as a charge for the supply of information technology-based services that allow a patron to place an order with a restaurateur,

(a) an amount not exceeding 5% of the total amount of the order if the delivery is carried out by the third person or in that person’s name; and

(b) an amount not exceeding 10% of the total amount of the order if the delivery is not carried out by the third person or in that person's name.

For the purposes of the first paragraph, the total amount of the order excludes the amount of the taxes and tip.

4. A third person who entrusts a delivery activity to a person who must carry it out in their name may not reduce the amounts they pay to that person as remuneration or other payment for the activity in order to comply with the provisions of section 3.

CHAPTER III

COMPLAINTS

5. A restaurateur that has retained the delivery services of a third person, or a person to whom a third person entrusts a delivery activity, may, after requesting the third person by a written notice to comply with section 3 or 4, as applicable, file a complaint with the Minister if the third person fails to remedy the failure.

6. A complaint must be filed electronically in the manner determined by the Minister, which must enable the complainant to provide the following information and documents:

- (1) proof of the amounts charged by the third person; and
- (2) a copy of the notice sent to the third person.

7. The Minister may require any other information or document from the complainant that the Minister considers necessary to process the complaint.

8. The Minister must dismiss a complaint if

- (1) the complaint is abusive, frivolous or clearly unfounded;
- (2) no notice was sent to the third person concerned;
- (3) the complaint was not filed in accordance with section 6; or
- (4) the complainant refuses or neglects to provide, within the time specified by the Minister, the information or the documents the Minister requires.

9. If the Minister is of the opinion that a complaint is admissible, the Minister notifies the third person concerned, who must in turn, within the time determined by the Minister, submit their observations to the Minister and, if applicable, send the Minister a copy of the documents in support of their contentions.

The Minister may, by the notice, require the third person to provide, within the same time, the information or the documents the Minister considers useful for processing the complaint or to otherwise provide access to that information or those documents to the Minister.

10. The Minister has 20 days from the date of the notice sent under section 9 to render a decision.

The Minister may attach either of the orders described in section 17, as applicable, to the decision. In such a case, the time the Minister has to render a decision is increased by the time the Minister determines under the second paragraph of that section.

11. The Minister sends, in writing, to the complainant and the third person concerned, any decision the Minister renders regarding a complaint, unless the complaint is dismissed for a reason listed in section 8. In the latter case, only the complainant is informed of the decision.

12. It is forbidden to take a reprisal in any manner whatever against a complainant or to threaten to take a reprisal against them so that they will abstain from filing a complaint.

13. A restaurateur or a person to whom a third person has entrusted a delivery activity and who, in good faith, files a complaint with the Minister incurs no civil liability for doing so.

14. Nothing in this chapter restricts a complainant's right to pursue a remedy based on the same facts as those set out in their complaint.

CHAPTER IV

INVESTIGATIONS

15. The Minister may, on the Minister's own initiative or on request, conduct an investigation or commission a person the Minister designates to conduct an investigation on any matter relating to the application of this Act.

16. No proceedings may be brought against an investigator for an act performed or omitted in good faith in the exercise of investigation functions.

CHAPTER V

ORDERS

17. The Minister may, when a complaint has been processed or an investigation has been concluded, order the third person concerned

(1) to reduce any amounts that the third person charges a restaurateur to bring them into compliance with the amounts prescribed in the first paragraph of section 3; and

(2) to restore the amounts that are paid to a person to whom the third person has entrusted a delivery activity if those amounts were reduced in contravention of section 4.

Before making an order, the Minister notifies the third person as prescribed by section 5 of the Act respecting administrative justice (chapter J-3), stating the grounds for the order and the date on which the order is to take effect, and granting the third party a period of time for presenting observations.

CHAPTER VI

PENAL PROVISIONS

18. Anyone who

(1) provides information they know to be false or misleading regarding a complaint filed under Chapter III,

(2) fails to provide any information or document required under the second paragraph of section 9, or

(3) hinders or attempts to hinder the action of an investigator in the exercise of investigation functions or powers, or who hides, destroys or refuses to provide information, a document or a thing the investigator is entitled to require or examine when exercising those functions,

commits an offence and is liable to a fine of \$2,500 to \$250,000 in the case of a natural person and \$7,500 to \$750,000 in all other cases.

19. Anyone who

(1) contravenes section 3, 4 or 12, or

(2) contravenes an order described in section 17,

commits an offence and is liable to a fine of \$5,000 to \$500,000 in the case of a natural person and \$15,000 to \$1,500,000 in all other cases.

20. The minimum and maximum fines under sections 18 and 19 are doubled for a subsequent offence.

CHAPTER VII

AMENDING PROVISION

21. The Act to limit certain charges in the restaurant industry (2021, chapter 4) is repealed.

CHAPTER VIII

MISCELLANEOUS AND FINAL PROVISIONS

22. The provisions of this Act apply despite any provision to the contrary in an agreement, convention, contract or any other similar instrument.

23. The Minister of Agriculture, Fisheries and Food is responsible for the administration of this Act.

24. This Act comes into force on *(insert the date of assent to this Act)*.

