

# BILL

No. 29

## An Act to Support Saskatchewan Restaurants

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(Assented to )

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

#### Short title

1 This Act may be cited as *The Supporting Saskatchewan Restaurants Act*.

#### Definitions

2 In this Act:

“**beverage**” includes an alcoholic beverage;

“**food delivery services provider**” means a person providing or facilitating food or beverage delivery services to a restaurant by any means, including through the use of a website, mobile application or other internet service;

“**inspector**” means a person designated pursuant to section 5;

“**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

“**ministry**” means the ministry over which the minister presides;

“**prescribed**” means prescribed in the regulations;

“**restaurant**”, subject to the regulations, means an establishment, other than a grocery store, that is ordinarily engaged in providing food or beverage services to customers who:

- (a) order and are served while seated; or
- (b) order or select, at a counter, food bar or cafeteria line, food or beverages prepared for immediate consumption and who normally consume the food or beverages while seated at the establishment.

**Maximum delivery charges**

**3(1)** Subject to subsections (2) and (3), no food delivery services provider shall charge a restaurant a fee for food or beverage delivery services that is greater than:

(a) if an employee or independent contractor of the food delivery services provider delivers the food or beverages, 18% of the total cost of the customer order before the application of the provincial sales tax; or

(b) if the customer picks up the food or beverages from the restaurant or the restaurant arranges for the delivery of the food and beverages through a means other than the food delivery provider, 10% of the total cost of the customer order before the application of the provincial sales tax.

(2) Nothing in this Act prevents a food delivery service provider from charging an amount for services other than food or beverage delivery services.

(3) This Act does not apply to a food delivery service provider providing or facilitating food or beverage delivery services to fewer than 50 restaurants in Saskatchewan.

**Compensation to employees and contractors not to be reduced**

**4(1)** No food delivery services provider shall reduce the compensation that it provides to its employees or independent contractors for delivering food or beverages.

(2) If a food delivery services provider collects an amount designated as a tip or gratuity for the delivery of food or beverages, the food delivery services provider shall pay the whole amount of the tip or gratuity to the employee or independent contractor who delivered the food or beverages.

**Inspectors**

**5** The minister may designate any person who the minister is reasonably satisfied is qualified as an inspector for the purpose of administering or enforcing this Act.

**Inspections**

**6(1)** Subject to subsection 7(4), for any purpose relating to the administration of this Act or the regulations, an inspector may do all or any of the following:

(a) enter at any reasonable time and inspect any premises occupied by a food delivery service provider;

(b) enter at any reasonable time premises containing any records or property prepared or kept by a food delivery service provider for the purposes of this Act or the regulations and inspect those records or that property;

(c) require a food delivery service provider or any person in possession of a place, including any premises or vehicle, being inspected pursuant to this section and any agent, representative, partner, director, inspector or employee of the food delivery service provider or person to:

(i) answer any questions that may be relevant to the inspection; and

(ii) provide the inspector with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information;

(d) for the purposes of clause (c), require any person mentioned in that clause to attend at a place and time set by the inspector;

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- (e) in order to produce information, use any computer hardware or software or any other data storage, processing or retrieval device or system that is used in connection with the business or activities of any person mentioned in clause (d);
  - (f) remove for examination and copying anything that may be relevant to the inspection, including removing any computer hardware or software or any other data storage, processing or retrieval device or system in order to produce information.
- (2) An inspector may serve a written demand on any person requiring that person to produce, within a period specified in the written demand, any records or property:
- (a) kept for purposes related to the matters governed by this Act or the regulations; or
  - (b) related to the administration of this Act.
- (3) No person on whom a written demand is served pursuant to this section shall fail to produce the records mentioned in the written demand within the period specified in the written demand.
- (4) If an inspector demands any records pursuant to this section, the inspector:
- (a) may examine the records and make copies of the records as soon as is reasonably possible; and
  - (b) shall promptly return the originals of the records to the person who produced them.
- (5) If an inspector requires a person to answer questions or to produce a record, or to provide assistance in accordance with this section, the person shall do so in the manner and within the period specified by the inspector.
- (6) An inspector shall:
- (a) give a receipt for anything that the inspector removes for examination and copying;
  - (b) promptly return anything removed pursuant to this section to the place from which it was removed or any other place agreed to by the inspector and the person who provided it; and
  - (c) take all reasonable steps to ensure that, if a record is removed, a copy of the record is left at the premises to allow business to be carried on.

### **Investigations**

**7(1)** If a justice or a provincial court judge is satisfied by information on the oath or affirmation of an inspector that there are reasonable grounds to believe that an offence against this Act or the regulations has occurred and that evidence of that offence is likely to be found, the justice or the provincial court judge may issue a warrant to do all or any of the following:

- (a) enter and search any place or premises named in the warrant;
- (b) stop and search any vehicle described in the warrant;
- (c) seize and remove anything that may be evidence of an offence against this Act or the regulations.

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- (2) With a warrant issued pursuant to subsection (1), an inspector may:
- (a) enter at any time and search any place or premises named in the warrant;
  - (b) stop and search any vehicle described in the warrant;
  - (c) open and examine any trunk, box, bag, parcel, closet, cupboard or other receptacle that the inspector finds in the place, premises or vehicle;
  - (d) require the production of and examine any record that the inspector believes, on reasonable grounds, may contain information related to an offence against this Act or the regulations;
  - (e) remove, for the purposes of making copies, any records examined pursuant to this section; and
  - (f) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act or the regulations.
- (3) Subject to subsection (4), an inspector may exercise all or any of the powers mentioned in subsection (2) without a warrant if:
- (a) the conditions for obtaining a warrant exist; and
  - (b) the inspector has reasonable grounds to believe that the delay necessary to obtain a warrant would result in the loss, removal or destruction of evidence.
- (4) An inspector shall not enter a private dwelling without the consent of the occupant or without a warrant obtained pursuant to this section.

**Copies of records**

- 8(1)** If any records are removed pursuant to section 6 or 7, the inspector may make copies of those records.
- (2) The inspector shall:
- (a) make copies of the records with reasonable dispatch; and
  - (b) promptly return the originals of the records to:
    - (i) the place from which they were removed; or
    - (ii) any other place that may be agreed to by the inspector and the person who provided the records or from whom they were seized.
- (3) A record certified by the inspector to be a copy made pursuant to this section:
- (a) is admissible in evidence without proof of the office or signature of the person making the certificate; and
  - (b) has the same probative force as the original record.

**Cooperation with inspectors**

- 9** No person shall resist, obstruct, hinder or interfere with inspectors who are acting in the course of their duties.

**Offences and penalties**

- 10(1) Every person is guilty of an offence who:
- (a) makes a false or misleading statement or provides false or misleading information to the minister, an inspector or any person acting on the behalf of the minister;
  - (b) omits to state a fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made to the minister, an inspector or any person acting on behalf of the minister;
  - (c) restricts, obstructs, hinders or interferes with an inspector carrying out the inspector's duties pursuant to this Act; or
  - (d) contravenes any provision of this Act or the regulations.
- (2) Every person who is guilty of an offence is liable on summary conviction to:
- (a) in the case of an individual, a fine not exceeding \$7,500; and
  - (b) in the case of a corporation, a fine not exceeding \$100,000.
- (3) If a corporation commits an offence pursuant to this Act, any officer or director of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties mentioned in this section whether or not the corporation has been prosecuted or convicted.
- (4) No prosecution for a contravention of this Act or the regulations is to be commenced more than 3 years from the date on which the offence is alleged to have been committed.

**Administrative penalty**

- 11(1) The minister may assess a penalty in the prescribed amount against any person for prescribed contraventions of this Act or the regulations.
- (2) Before assessing a penalty, the minister shall provide notice to the person:
- (a) setting out the facts and circumstances that, in the minister's opinion, render the person liable to a penalty;
  - (b) specifying the amount of the penalty that the minister considers appropriate in the circumstances; and
  - (c) informing the person of the person's right to make representations to the minister.
- (3) No penalty is to be assessed by the minister more than 3 years after the act or omission that renders the person liable to a penalty first came to the knowledge of the minister.
- (4) A person to whom notice is sent pursuant to subsection (2) may make representations to the minister respecting whether or not a penalty should be assessed and the amount of any penalty.
- (5) Representations pursuant to subsection (4) must be made within 30 days after the person received the notice pursuant to subsection (2).

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- (6) After considering any representations or if the period for making representations has expired and no representations have been made, the minister may:
- (a) assess a penalty and set a date by which the penalty is to be paid in full; or
  - (b) determine that no penalty should be assessed.
- (7) The minister shall serve a copy of the decision pursuant to subsection (6) on the person who made the representations, if any.
- (8) The minister may file in the Court of Queen's Bench a certificate signed by the minister and setting out:
- (a) the amount of the penalty assessed pursuant to subsection (6); and
  - (b) the person from whom the penalty is to be recovered.
- (9) A certificate filed pursuant to this section has the same force and effect as if it were a judgment obtained in the Court of Queen's Bench for the recovery of a debt in the amount set out in the certificate, together with reasonable costs and charges with respect to its filing.
- (10) The minister may assess a penalty pursuant to this section notwithstanding that the facts and circumstances giving rise to the penalty arose due to the actions of an employee, helper, contractor or agent of the person required to pay the penalty.

#### **Evidence**

**12** Except in a proceeding pursuant to this Act, no person shall be required to give testimony in a civil proceeding with regard to information obtained in the course of exercising a power or carrying out a duty related to the administration of this Act or the regulations.

#### **Immunity**

**13** No action or proceeding lies or shall be commenced against the Crown in right of Saskatchewan, the minister, the ministry, an inspector or any other person acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or any responsibility imposed by this Act or the regulations.

#### **Regulations**

**14(1)** The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) amending the definition of "restaurant" in section 2 by adding classes of establishments to, or removing classes of establishments from, the definition;
- (c) exempting persons or classes of persons from this Act or any provisions of this Act;
- (d) respecting administrative penalties, including:
  - (i) prescribing the contraventions of this Act or the regulations for which a penalty may be assessed; and
  - (ii) prescribing the amount of an administrative penalty and, for that purpose, may prescribe different amounts for different contraventions;

- (e) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
  - (f) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2) A regulation made pursuant to this section may be made retroactive to a date not earlier than May 1, 2021.

**Coming into force and repeal**

- 15(1) This Act comes into force on May 1, 2021.
- (2) This Act is repealed and ceases to apply on:
- (a) August 31, 2021; or
  - (b) any earlier date that may be fixed by order of the Lieutenant Governor in Council.

FIRST SESSION

# Twenty-ninth Legislature

SASKATCHEWAN

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## B I L L

No. 29

An Act to Support Saskatchewan Restaurants

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Received and read the

First time

Second time

Third time

And passed

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Honourable Jeremy Harrison

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