

Memo in Opposition to Int. 2311-2021
June 2021

Comments: Tech:NYC and the Electronic Frontier Foundation strongly oppose Int. 2311-2021 which would weaken consumer privacy protections by forcing third-party food delivery platforms to share consumer personal information with restaurants. This bill would directly undermine the spirit and intent of consumer rights advocates and technology companies currently working together in New York State and elsewhere throughout the country to better protect the personal data of consumers.

Int. 2311-2021 mandates that food delivery platforms share consumers' personal information based on the faulty premise that it will "level the playing field" for small businesses. But on-demand platforms, restaurants, and other food facilities are working together every day to find new ways to promote growth in local stores and expand the customer base in those local stores without the dangerous data sharing mandate contemplated by this bill.

Int. 2311-2021 would force on-demand platforms that facilitate food delivery to disclose the personal information of their users, including their names, email addresses, telephone numbers, and delivery addresses with any restaurant or other food facility upon request in a machine-readable, downloadable format. Platforms would also be required to share the contents of the order in a downloadable, machine-readable format.

This data sharing mandate is concerning on several fronts. First, this information is not the type of personal information merchants would require during their normal course of business. In other words, a consumer who dines-in at a restaurant today does not have to provide the restaurant the very same information that Int. 2311-2021 mandates be disclosed. On the other hand, this information is required by the platforms, solely to perform food purchasing transactions and delivery.

Second, this bill places consumer information at risk. The bill fails to provide any security requirements for restaurants after they receive personal information or how they must store information. For example, information could be stored on a computer that does not require a password, that is regularly accessed by multiple people, or located at the front of the restaurant where it could be easily accessed by anyone when staff isn't looking. The bill simply assumes that restaurants have the technical capacity to download this information and store it in a way that will not allow for unauthorized individuals to access it. Even if they voluntarily choose to do so, not all restaurants will have the resources to invest in a secure operating system to download and keep this information secure.

Given the lack of security protections after this data is shared, most concerning is that the bill is silent on notice to consumers if their personal information held by a restaurant is accessed by a third party without the restaurant's permission. Since the information to be shared is not covered by the New York State Shield Act, this is most concerning that there could be a security breach and no notice would be provided to customers that their name, address, email address, and telephone numbers had been improperly disclosed to a person or entity.

Int. 2311-2021 is ultimately a net negative for consumers. It forces consumer data to be shared with food facilities for little or no benefit to the consumer. Consumers who utilize a platform do not expect that their information will necessarily be shared with any food facility that they order from, nor do these consumers necessarily want to receive communications from every restaurant they order from. Second, the bill would undoubtedly lead to a proliferation of unsolicited and unwanted spam from merchants. Forced dissemination of personal information will no doubt lead to unsolicited calls and text messages, email spam, and junk mail. Since such data is not traditionally collected by restaurants in the analog world, it is not appropriate for platforms to be required to disclose it to every restaurant receiving an order.

For these reasons, we are opposed to Int. 2311-2021 as it will place consumer personal information at risk for no consumer benefit.

Thank you for your consideration and please do not hesitate to reach out with any questions.