



December 18, 2020

The Honorable Peter Courtney  
The Honorable Tina Kotek  
Joint Interim Committee on The Third Special Session of 2020  
900 Court Street  
Salem OR 97301

RE: LC 10 - Amendments Needed

Dear President Courtney, Speaker Kotek and members of the Committee:

Internet Association (IA) appreciates the opportunity to express our concerns regarding LC 10 relating to consumable items which the legislature will consider during its 2020 3rd Special Session. IA represents more than 40 of the world's leading internet companies, and advances public policy solutions that foster innovation, promote economic growth, and empower people through the free and open internet. Our members include delivery network companies who will be regulated by this bill.

IA appreciates the challenges the restaurant industry faces today. Since COVID-19 began impacting our communities, our member companies have provided tens of millions of dollars in direct restaurant support and have spent millions more providing free meals to healthcare workers, seniors, school children, and other vulnerable groups. It is also worth noting that all the delivery network companies in our membership have voluntarily frozen or reduced commission rates in response to the pandemic, in some cases by as much as 50 percent. We also know that Delivery Network Companies (DNCs) provide a lifeline for many restaurants that do not offer their own delivery services. LC 10 threatens this service in communities around the state.

LC 10 is modeled off a City of Portland ordinance that caps the commission that a delivery network company can charge for its services. IA expressed opposition to the City of Portland when it implemented this ordinance--the lowest and least flexible cap in the country--because we believe this regulation would unfairly regulate the contracts that our member companies have with restaurants, and would result in a reduction in orders and compensation for our drivers. Those fears have been realized, and delivery network companies have seen a 10-25 percent reduction in orders in jurisdictions with caps. While jurisdictions without caps have seen an increase in orders during the same time period. IA believes adopting the Portland ordinance statewide will have significant, negative impacts on the services our members provide, the drivers who provide the service, and the customers who want and rely on the service.

Restaurant commissions cover a broad range of services made available to restaurants through our



members' platforms. They are not one-size-fits-all agreements but rather are tailored to each restaurant's needs. These restaurants can collaborate on marketing collateral, determine the appropriate neighborhoods to open new locations, and even see how pricing affects consumer demand. Commissions and fees go a long way toward supporting delivery platforms' operational costs, ensuring workers are paid fairly, and allowing them to provide the reliable and safe service that residents expect and rely upon, especially in times of need like today.

Instituting a statewide cap will have different outcomes in different communities. Dense urban areas such as Portland have seen a reduction in orders since the cap has been in place. If this same regulation were required statewide, less densely populated areas would see an even greater reduction, which would result in significantly less work for drivers. We believe the reduction in suburban and rural areas will be significant enough that delivery is no longer cost effective, and service will decline significantly. A one-size-fits-all approach will have uneven outcomes.

Collectively, the DNCs have tens of thousands of drivers on their platforms available for deliveries in Oregon. Adopting a low statewide cap will significantly impact their income. Many have chosen to drive to supplement their income during the pandemic. This income could be making the difference in their ability to pay rent or put food on their family's table.

Given that, IA would request LC 10 be amended to align more closely with other jurisdictions around the country which have instituted caps without devastating this nascent industry.

IA supports the primary purpose of LC 10 to allow for the delivery of mixed drinks in sealed containers. This is a win-win for restaurants and DNCs and we believe this provision will provide a helpful revenue increase for many restaurants.

Section 3 of the bill, conversely, institutes a cap and regulation on DNCs that goes far beyond every other jurisdiction in the country. IA recommends Section 3 be amended to align with other jurisdictions more closely and set the commission cap for 15 percent for delivery charges. This would allow for regulation of DNCs to provide a temporary benefit to restaurants while their indoor dining is closed.

In addition, IA recommends you remove the 60-day extension beyond the emergency order. In fact, the regulations should be tied to the status of the emergency order and when restaurants will be able to see patrons for indoor dining again. The Washington State Executive Order ties the caps directly to indoor dining capacity. This makes policy sense, if the caps are in place because the emergency order restricts indoor dining then caps should be linked to the availability of indoor dining.

While IA believes the cap restrictions are regulatory overreach, we urge that such action does not place one business model at such a disadvantage over another. Oregon should ensure DNCs and restaurants work collaboratively to ensure access to delivery is increased rather than decreased.



IA appreciates your consideration and respectfully requests you amend the bill to align more closely with other jurisdictions who have taken similar action.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rose Feliciano', with a long horizontal line extending to the right.

Rose Feliciano

Director, State Government Affairs, Northwest Region