

JAN 27 2021

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# A BILL FOR AN ACT

RELATING TO ECONOMIC RECOVERY FOR RESTAURANTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that restaurants have  
2 struggled to remain open because of the pandemic caused by the  
3 spread of the virus known as SARS-CoV-2, which causes a disease  
4 named coronavirus disease 2019 (COVID-19). According to the  
5 Hawaii Restaurant Association, at least fifteen per cent of the  
6 state's 3,600 restaurants have closed down since the pandemic  
7 began. A survey conducted by the University of Hawaii public  
8 policy center found that more than fifty per cent of Hawaii  
9 restaurants risk permanent closure by April 2021 due to  
10 continued economic hardships brought on by the COVID-19  
11 pandemic. About thirty-nine per cent of restaurants in the  
12 State say they have not reopened for in-person dining, even  
13 though they are allowed to, and nearly half of restaurants say  
14 economic pressures linked to the COVID-19 outbreak have forced  
15 their employees to leave the State. Further, more than one in  
16 four restaurants reported being four or more months behind on  
17 payables, including rent, utilities, wages, or supplies.



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1           The legislature further finds that when the counties began  
2 allowing businesses to reopen, restaurants were only allowed to  
3 reopen once they were able to adhere to certain requirements,  
4 such as implementing strict capacity limits, developing expanded  
5 sanitation procedures, enforcing social distancing requirements,  
6 and adhering to various other strict guidelines relating to both  
7 patrons and restaurant workers. Due to these restrictions and a  
8 decrease in patronage, all restaurants in the State of Hawaii  
9 are facing unprecedented hardships as they work to protect both  
10 public safety and the economic livelihood of their owners and  
11 employees. The State must support local restauranteurs as they  
12 battle the current and lasting economic effects of the COVID-19  
13 pandemic.

14           Accordingly, the purpose of this Act is to:

15           (1) Allow restaurants to apply a restaurant service  
16           surcharge to generate revenue for the exclusive use of  
17           the restaurants to be used for economic recovery from  
18           COVID-19 impacts; and

19           (2) Permit establishments with a class 2 restaurant liquor  
20           license to:



1 (A) Allow for the consumption of liquor anywhere on  
2 the premises, including the restaurant's outdoor  
3 property; and

4 (B) Sell liquors in their original packages for pick  
5 up, delivery, take out, or other means for off-  
6 premises consumption.

7 SECTION 2. The Hawaii Revised Statutes is amended by  
8 adding a new chapter to be appropriately designated and to read  
9 as follows:

10 **"CHAPTER**

11 **RESTAURANT SERVICE SURCHARGE**

12 § -1 **Definitions.** As used in this chapter, unless the  
13 context otherwise requires:

14 "Customer" means a person who purchases food or beverages  
15 from a restaurant.

16 "Restaurant" means an eating establishment, including but  
17 not limited to coffee shops, cafeterias, and sandwich stands,  
18 which gives or offers for sale food to the public, guests, or  
19 employees, as well as kitchens and catering facilities in which  
20 food is prepared on the premises for serving elsewhere.



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1           §   -2 **Restaurant service surcharge; established.** (a) A  
2 restaurant may apply a restaurant service surcharge to a  
3 customer's bill for the sale of food or beverage services. The  
4 service surcharge shall be two per cent of the amount of a bill  
5 before taxes are charged.

6           (b) Any restaurant that implements and collects the  
7 restaurant service surcharge shall be authorized to retain all  
8 revenue generated from the surcharge, which shall be used solely  
9 for economic recovery from COVID-19 impacts.

10          (c) Any restaurant that implements the restaurant service  
11 surcharge shall clearly disclose to the customer before any  
12 purchase that the surcharge is being used to solely for economic  
13 recovery from COVID-19 impacts."

14          SECTION 3. Section 281-31, Hawaii Revised Statutes, is  
15 amended by amending subsection (c) to read as follows:

16          "(c) Class 2. Restaurant license.

17          (1) A license under this class shall authorize the  
18 licensee to sell liquor specified in this subsection  
19 for consumption anywhere on the premises[+], including  
20 the outdoor property of the establishment in which the  
21 liquor was sold; provided that a restaurant licensee,



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1 with commission approval, may provide off-premises  
2 catering of food and liquor; provided further that the  
3 catering activity shall be directly related to the  
4 licensee's operation as a restaurant. A license under  
5 this class shall also authorize the licensee to sell  
6 beer, malt beverages, or cider for off-premises  
7 consumption; provided that the licensee has the  
8 appropriate kind of license pursuant to paragraph (3);  
9 provided further that the beer, malt beverage, or  
10 cider is sold in a securely sealed or covered glass,  
11 ceramic, or metal container that is sold to or  
12 provided by the patron, and each sealed or covered  
13 glass, ceramic, or metal container does not exceed a  
14 maximum capacity of one-half gallon. A license under  
15 this class shall also authorize the licensee to sell  
16 liquors in their original packages for pick up,  
17 delivery, take out, or other means for off-premises  
18 consumption; provided that the licensee has the  
19 appropriate license pursuant to paragraph (3). A  
20 licensee under this class shall be issued a license  
21 according to the category of establishment the



1           licensee owns or operates. The categories of  
2           establishment shall be as follows:  
3           (A) A standard bar; or  
4           (B) Premises in which live entertainment or recorded  
5           music is provided. Facilities for dancing by the  
6           patrons may be permitted as provided by  
7           commission rules.

8           (2) If a licensee under class 2 desires to change the  
9           category of establishment the licensee owns or  
10          operates, the licensee shall apply for a new license  
11          applicable to the category of the licensee's  
12          establishment.

13          (3) Of this class, there shall be the following kinds:  
14          (A) General (includes all liquor except alcohol);  
15          (B) Beer and wine; and  
16          (C) Beer.

17          (4) A new class 2 license may be issued prior to an  
18          establishment commencing operation. An application  
19          for a new class 2 license shall include a  
20          certification by the applicant that the applicant  
21          intends to and shall derive no less than thirty per



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1 cent of the establishment's gross revenue from the  
2 sale of foods.

3 Notwithstanding section 281-57, the commission may approve at  
4 one public hearing and without notice the change to a class 2  
5 restaurant license of a licensee holding a class 5 dispenser  
6 license who meets the requirements of a class 2 license."

7 SECTION 4. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval;  
10 provided that section 2 shall take effect on July 1, 2021, and  
11 shall be repealed on June 30, 2026.

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INTRODUCED BY:

James Acasio



# S.B. NO. 1417

**Report Title:**

Restaurants; Restaurant Service Surcharge; Established; Liquor;  
Class 2 Liquor License; COVID-19 Relief

**Description:**

Until 7/1/2026, allows restaurants to apply a restaurant service surcharge for the sale of food or beverage services, the revenues of which shall be used exclusively by the restaurants for economic recovery from COVID-19 impacts. Authorizes establishments with a class 2 restaurant liquor license to allow the consumption of liquor anywhere on the premises, including the restaurant's outdoor property and sell liquors in their original packages for pick up, delivery, take out, or other means for off-premises consumption.

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