

JAN 27 2021

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,



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.

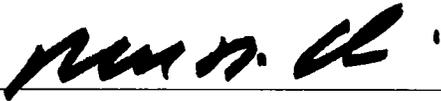
3 Notwithstanding section 281-57, the commission may approve at
4 one public hearing and without notice the change to a class 2
5 restaurant license of a licensee holding a class 5 dispenser
6 license who meets the requirements of a class 2 license."

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.

12

INTRODUCED BY:


By Request



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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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