

JAN 19 2024

A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

1 SECTION 1. The legislature finds that the restaurant
2 industry has been greatly affected by the rising costs of living
3 and doing business following the coronavirus disease 2019
4 pandemic. In particular, businesses have been challenged by the
5 increase in supply costs, utilities, and food expenses. The
6 legislature finds that businesses serve a vital role in the
7 community, and that it is important to support business efforts
8 and to encourage creative price control methods that do not
9 detract from consumer satisfaction.

10 The legislature finds that as restaurants and food service
11 establishments find new ways to operate in the face of these
12 challenges, some restaurants have included an additional hidden
13 fee in bills, referred to as a "Supply Chain Adjustment" fee,
14 which can be up to ten per cent of the total meal cost. The
15 public has expressed confusion about this and other additional
16 fees at establishments where the ineffective notification of



1 fees left patrons feeling misinformed about their choices as
2 consumers.

3 The legislature finds that increasing prices to keep up
4 with supply costs is a natural part of doing business. However,
5 hiding fees from consumers and then forcing them to pay at the
6 end of their meal or upon receiving their order is not only
7 dishonest, but according to the office of consumer protection, a
8 practice that is illegal.

9 The legislature finds that a clear and comprehensive notice
10 of additional fees and other details that affect the prices of
11 menu items and the total bill for restaurant patrons would
12 function to protect consumers and provide restaurants the
13 opportunity to strategize their approach to offsetting business
14 costs.

15 Accordingly, the purpose of this Act is to:

16 (1) Require each food establishment to clearly and
17 conspicuously display, in each advertisement and when
18 a price is first shown to a customer, the total price
19 of the food or beverage provided, including any
20 mandatory fees a customer would incur during the



1 transaction, which shall not change during the
2 purchase process; and

3 (2) Require the department of commerce and consumer
4 affairs to adopt rules to carry out this Act.

5 SECTION 2. Chapter 481B, Hawaii Revised Statutes, is
6 amended by adding a new section to part I to be appropriately
7 designated and to read as follows:

8 "§481B- Food establishment fees and surcharges;
9 disclosure requirements. (a) Each food establishment shall
10 clearly and conspicuously display, in each advertisement and
11 when a price is first shown to a customer, the total price of
12 the food or beverage provided, including any mandatory fees a
13 customer would incur during the transaction, which shall not
14 change during the purchase process.

15 (b) A food establishment shall not impose on a customer or
16 advertise any mandatory fees that are excessive or deceptive for
17 any food or beverage offered by the food establishment.

18 (c) The department of commerce and consumer affairs shall
19 adopt rules pursuant to chapter 91 to carry out the purposes of
20 this section.

21 (d) As used in this section:



1 "Customer" means a person who purchases food or beverages
2 from a food establishment.

3 "Food establishment " means an eating establishment,
4 including but not limited to restaurants, coffee shops,
5 cafeterias, sandwich stands, and food trucks, that gives or
6 offers for sale food to the public, guests, or employees, as
7 well as kitchens and catering facilities in which food is
8 prepared on the premises for serving elsewhere. The term "food
9 establishment" includes a bar area within any restaurant or
10 outdoor area of a restaurant.

11 "Mandatory fee" includes:

- 12 (1) Any fee or surcharge that a customer is required to
13 pay to purchase the food or beverage being advertised;
14 (2) A fee or surcharge that is not reasonably avoidable;
15 (3) A fee or surcharge that a reasonable customer would
16 not expect to be included with the purchase of the
17 food or beverage being advertised; or
18 (4) Any other fee or surcharge determined appropriate by
19 the department of commerce and consumer affairs."



S.B. NO. 2694

1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect upon its approval.

6

INTRODUCED BY: 



S.B. NO. 2694

Report Title:

Consumer Protection; Food Establishments; Fees and Surcharges; Disclosure Requirements; Advertising; Food and Beverages; Unfair and Deceptive Practices

Description:

Requires each food establishment to clearly and conspicuously display, in each advertisement and when a price is first shown to a customer, the total price of the food or beverage provided, including any mandatory fees a customer would incur during the transaction, which shall not change during the purchase process. Prohibits a food establishment from imposing on a customer or advertising any mandatory fees that are excessive or deceptive for any food or beverage offered by the food establishment.

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