

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
Fifteenth Regular Session

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HOUSE BILL NO. _____

Introduced by ATTY. MAGTANGGOL T. GUNIGUNDO I

EXPLANATORY NOTE

The purpose of this re-filed bill which is originally HB 6602 that we filed in the 14th Congress that was stalled by the Committee on Trade and Industry is to regulate service charges imposed by hotels, restaurants and other similar establishments to their customers.

There has been a proliferation of the practice of adding service charges to the bills or receipt of customers eating in food establishments. Although customers do not mind giving tips or gratuity for good service, they are forced to pay service charges even when the service is not to their liking and in an amount that is exorbitant.

Tipping is an act of liberality on the part of customers who won't mind shelling out extra-money to reward superb service. Hotels, restaurants and other similar establishments should not be given the liberty to charge unreasonable and exorbitant service charges. Otherwise, this is tantamount to unjust enrichment.

Just recently, I listened to a couple of complaints about establishments imposing service charges. Customers get mild to extreme shock when their bills come out much higher than the actual price in the menu. The restaurants reason out that they have a note in the menu, usually in fine print, stating that prices are exclusive of the 12% VAT and service charges. For everyone's information, such practice is unfair and illegal. A customer should be allowed to make decisions based on complete information. They should be able to make comparison based on prices presented in a standard format for all vendors.

Service charges are supposed to be a gratuity payment for the good service the staff has rendered to the customer, for guiding them on what's good in the menu, for serving in a fast and quick manner the delicious and tasty food, for putting more ice as requested on drinking water and for getting spices and other condiments to our table to suit our taste buds, or for displaying a sweet smile towards the latter. But what if the service was lousy? Can customers refuse to pay up? In order to avoid surprises and in compliance with the public's right to information, this bill requires food and beverage outlets to conspicuously display signs that they are to impose service charges, and under what circumstances can service charges be imposed and at what amount.

There is no rule on service charges as to how much shall be charged. The Labor Code mentions that *"all service charges collected by hotels, restaurants and similar establishments shall be distributed at the rate of 85% for all covered employees and 15% for management"*. Whether this provision is applied, we are not certain. We must see to it that the share of the staff/employees must really go to them.

Immediate approval of this bill is earnestly sought.


ATTY. MAGTANGGOL T. GUNIGUNDO I

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 216

Introduced by ATTY. MAGTANGGOL T. GUNIGUNDO I

AN ACT
REGULATING THE IMPOSITION OF SERVICE CHARGE BY
HOTELS, RESTAURANTS AND OTHER SIMILAR
ESTABLISHMENTS, AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives in Congress assembled:

Section 1. **Short Title.** – This Act shall be known as the “**Service Charge Regulation Act of 2010**”.

Section 2. **Definition of Terms.** – The following terms when used in this Act shall mean, to wit:

- a. **Hotel-** An establishment that provides lodging and usually meals and other services for travelers and other paying guests.
- b. **Restaurant-** a place where meals can be bought and eaten.
- c. **Other Similar Establishments-** any akin places dining room, inn, coffee shop, sandwich shop, tavern, pub, steakhouse, coffee house, chophouse, tearoom, luncheon, luncheonette, lunch-wagon, hamburger stand, fast-food outlet, fast-food joint, fast-food place, *trattoria*, *ristorante* (both Italian), *estaminet*, *bistro*, *brasserie* (all French), creamery, dining car, dining coach, dining saloon, diner, lunch bar, soda fountain, milk bar, hot-dog stand, snack bar, raw bar, sushi bar, automat, rathskeller, rotisserie, cabaret, night club, cafeteria, grill, grillroom, oyster house, barbecue, spaghetti house, deli, pizzeria, canteen, pub, karaoke bar, videoke bar, beer garden, resorts and other related function halls that provide food, drinks and beverages.
- d. **Service Charge-** An additional charge for the service (providing the meals on the table; setting up table, utensils; providing condiments and spices) exclusive of the price of the food and drinks consumed or ordered in the food outlet and the local/national taxes.

Section 3. **Limitations.** – The service charge should not be more than two (2) percent of the total price of the food, commodity or service.

Section 4. **Confines of Imposing the Service Charge.** – The service charge should be imposed only on certain conditions:

1. when customers are an aggrupation of 10 or more persons, except in cases where it is a buffet-style or self-service;
2. when customers are not senior citizens or persons with disabilities.

Section 5. ***Criminalizing the Violation of Art. 96 of the Labor Code of the Philippines.*** – The manager, owner, director or officer of the hotel, restaurant or similar establishments shall suffer the penalty of **6 months to 6 years imprisonment and/or fine ranging from 50,000 to 100,000** for their failure to distribute immediately to the employees, whether regular, contractual or apprentice their apportioned share of the service charge.

Section 6. ***Signages.*** – All hotels, restaurants and other similar establishments that are imposing service charges shall post signages displayed conspicuously in the foyer, front door, table counter and in other prominent spot thereof, in Filipino and English, at least 4" x 8" in size, in clearly legible black text with white background, subject to limitations provided under Sections 3 and 4 of this Act. Failure on the part of the hotel owner, restaurateur, manager or officer of the establishment to post the signages shall be a ground for the customers not to pay the service charge for the food, commodity or service purchased by the latter.

Section 7. ***Implementing Rules and Regulations (IRR).*** – The Secretary of Trade and Industry, Secretary of Labor and Employment, Secretary of Justice, and the President of the Hotel and Restaurants Association of the Philippines or similar association shall draft the Implementing Rules and Regulations (*IRR*) after fifteen (15) days from the effectivity of this Act and submit the same to Congress for its proper implementation.

Section 8. ***Separability Clause.*** – The provisions of this Act are hereby deemed separable. If any provision thereof is declared invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions which shall remain in effect.

Section 9. ***Repealing Clause.*** – All laws, decrees, executive orders, rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed.

Section 10. ***Effectivity.*** – This Act shall take effect thirty (30) days following its publication in the Official Gazette or in a newspaper of general circulation.

Approved,