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**STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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DEPUTY DIRECTOR

**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
House Committee on Labor  
Thursday, February 6, 2020  
9:00 a.m.  
State Capitol, Conference Room 309**

**On the following measure:  
H.B. 1605, RELATING TO SERVICE CHARGES**

Chair Johanson and Members of the Committee:

My name is Stephen Levins, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection. The Department supports this bill.

The purpose of this bill is to prohibit restaurants and hotels from applying service charges for the sale of food or beverage services unless they are distributed as tip income directly to their employees.

Gratuities imposed on consumers, or "automatic gratuities," are not tips but rather, service charges. Examples of service charges include the 18% a restaurant imposes on a party of six or more or the event fee for a banquet held at a hotel ballroom. Like tips, diners at a restaurant or the host of a banquet pay the service charge for the service the servers have performed, in addition to the price of the meal and beverages. As such, whenever a service charge is itemized on a restaurant bill, consumers expect this extra fee to go directly to the servers as tip income, to

Testimony of DCCA

H.B. 1605

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compensate them for their service during the meal or event. Therefore, distributing a service charge for any purpose other than tip income constitutes an unfair and deceptive act, because the consumers believe they are paying for a service when, in fact, they are not.

Thank you for the opportunity to testify on this bill.



February 4, 2020

Representative Aaron Ling Johanson, Chair  
Representative Staceylynn Eli, Vice Chair  
House Committee on Labor and Public Employment  
Hawaii Legislature

**Testimony in Opposition to HB1605**

Dear Representative Johanson, Representative Eli and Members of the Committee on Labor and Public Employment,

Thank you for the opportunity to offer this testimony regarding HB1605, regarding the disposition of hotel and restaurant service charges, and portage service charges. The Kohala Coast Resort Association opposes this bill.

The amount of the service charges are fully disclosed to both the patrons who will be paying those charges, and the employees who will be serving in those positions. The employees are informed of the amount of the rate, and the negotiated split, prior to signing their employment contract. The vast majority of the funds collected are pooled and split as tip income amongst all of the food and beverage and portage employees. A small portion is used by the hotel to offset other operations costs.

The visitor industry is the economic driver for our economy. According to the Hawaii Tourism Authority, it generates more than 200,000 jobs, and now raises more than \$600 million through the TAT alone. Meanwhile, the hospitality industry continues to experience the increasing costs of doing business in terms of employee payroll and benefits, uniforms, utilities, and the higher costs of purchasing food and beverages. Those escalating costs are paid through other hotel revenues, including this small portion of the service charge rate.

KCRA is a collection of master-planned resorts and hotels situated north of KOA which represents more than 3,500 hotel and timeshare accommodations and an equal number of resort residential units. This is approximately 35 percent of the accommodations available on the island. KCRA members annually pay more than \$20 million in TAT, \$20 million in GET and \$11 million in property taxes.

We encourage your opposition to this measure.  
Sincerely,

A handwritten signature in black ink that reads "Stephanie P. Donoho". The signature is written in a cursive, flowing style.

Stephanie Donoho, Administrative Director



**Tom Jones, Chairman** – Gyotaku      **Greg Maples, Incoming Chair** – Pounders Restaurant  
**Paul Reynolds, Vice Chair** – Outback Steakhouse      **Dirk Koeppenkastrop, Secretary** – Il Gelato Hawaii  
**Tammy Fukugawa, Treasurer** – TS Restaurant      **Keli'i Gouveia, Past Chair** – Duke's Waikiki

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**Sheryl Matsuoka**, Executive Director      **Leila Morinaga**, Executive Assistant      **Holly Kessler**, Director of Membership Relations

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Tammy Fukagwa  
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Wade Hashizume

To:      Rep. Aaron Ling Johanson, Chair  
          Rep. Stacelynn K.M. Eli, Vice Chair  
          Members of the Committee on Labor & Public Employment

From:    Victor Lim, Legislative Lead  
          Hawaii Restaurant Association

Subj:    HB 1605 Relating to Service Charge

Date:    February 4, 2020

The Hawaii Restaurant Association representing over 3,500 restaurants here in Hawaii supports HB 1605 Relating to Service Charges (TiP) for the sale of Food or Beverage. However, we cannot take a position for the Hotel Industry because they do handle this quite differently.

Thank you for allowing us to share our position.

**Allied Members:**

Biff Graper  
Dan Pence  
Doug Harris  
Gerda Tom  
Jason Wong  
Matt Rose  
Michael Griffith  
Naomi Azama  
Sharon Shigemoto  
Stevette Santiago

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# Late Testimonies



Testimony of

Mufi Hannemann  
President & CEO  
Hawai'i Lodging & Tourism Association

Committee on Labor & Public Employment

House Bill 1605: Relating to Service Charges

Chair Johanson and members of the committee, mahalo for the opportunity to submit testimony on behalf of the Hawai'i Lodging & Tourism Association, the state's largest private sector visitor industry organization.

The Hawai'i Lodging & Tourism Association—nearly 700 members strong, representing more than 50,000 hotel rooms and nearly 40,000 lodging workers—does not support House Bill 1605 which relates to service charges.

While we understand the impetus for this proposed measure, it is our position that the government should not interfere in any business agreement that was previously reached between an employer and their employee. Moreover, the government should not pass legislation that mandates how a business should handle their pay structure or tips system.

Thank you for the opportunity to offer this testimony.