



NEW YORK  
STATE  
RESTAURANT  
ASSOCIATION

## **In support of 823 – Allowing Restaurants to Institute Surcharges**

Good afternoon. My name is Kevin Dugan and I am the Director of Government Affairs for the New York State Restaurant Association, a trade group that represents food and beverage establishments both in New York City and throughout New York State. The Association is the largest hospitality trade association in the State of New York and it has advocated on behalf of its members for more than 80 years. Our members represent one of the largest constituencies regulated by the City as nearly every agency regulates restaurants in one aspect or another.

Restaurants employ hundreds of thousands of New Yorkers and are a backbone of the tourism trade here in New York City. To ensure the continued viability of the restaurant and hospitality industry, New York City must have sensible and reasonable regulations that protect consumers and the restaurants that serve them. Currently our members across the five boroughs are facing challenges that seem to escalate daily. Rents are continuing to increase at an exponential pace and eateries are running out of ways to make ends meet. Prices can only be raised so much before customers stop coming. The City needs to do all it can to help support these important businesses or be prepared to see many of the restaurants that make New York City what it is, close their doors for good.

Intro 823 would go a long way to improving the business climate for many owners as it provides them with a much needed economic tool. Therefore we applaud Councilman Borelli for introducing this important legislation. Allowing restaurants to incorporate a surcharge structure would allow them to offset costs and bring pay equity to their operations. As businesses continue to fight uphill against ever increasing costs, it is many of the employees that work in the kitchens that suffer. These employees are currently not allowed to take part in any kind of tip pool due to New York State Department of Labor law, while other employees have the ability to supplement their income through tips, these workers do not. This forces them to rely solely on the hourly wage their employers can afford to pay them and with dollars becoming stretched, back of the house employees are forced to go longer without seeing any kind of increase. By allowing restaurants to institute an administrative fee or surcharge, owners would be able to bring in additional income to give these workers raises they so richly deserve.

In 1976 the New York City Department of Consumer Affairs implemented a rule that prohibits restaurants from adding certain types of charges to their menus. The original intent of the rule was to protect consumers against unfair practices which saw restaurants change prices

tableside without disclosing the fact that these prices would differ before seating. This practice was primarily done in response to unforeseen spikes in beef prices during this time period.

Clearly, these issues are no longer prominent and further consumer protection laws have been established. Simply put - the current law that prohibits this practice is out of date and no longer serves the purpose it was created for. No longer do customers have to worry about being charged a price that differs from what they would see on the menu. Over the last few years we have continually made this point to the New York City Department of Consumer Affairs and we have still have yet to see any progress made in getting this law changed. Every other corner of this State allows restaurants to operate with this type of fee or surcharge. This simply isn't fair.

We agree that any surcharge or administrative fee needs to be fully disclosed on any menu or menu board in a clear and conspicuous manner. We are not looking to have legislation passed that would "put one over" on the customer or in any way deceive them in what they will see on their check. We would also encourage a significant amount of time be devoted to customer education if a restaurant were to institute this type of charge.

Our support for this legislation boils down to the fact that our industry is sitting on a knife edge and we need all the help that we can get. Over the last few years at both the State and City levels, the restaurant industry has seen a number of bills passed that have dramatically affected their ability to make ends meet. We are asking for your help on this because simply put, the restaurant industry in New York City desperately needs this.

New York City restaurants are being forced to operate at a disadvantage due to a rule that no longer fits the purpose it was set out to fulfill. We urge the City Council to correct this mistake and pass this needed legislation. In conclusion, the New York State Restaurant Association supports Int. 823 and urges the Council to look for further ways to assist the businesses that call this City home. We look forward to working with the Council on future bills that also touch on this area.

Respectfully Submitted,

Kevin Dugan

Director of Government Affairs

New York State Restaurant Association

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