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Social policy on the menu

San Francisco eateries are angered by a healthcare law. Diners eat some of the cost.

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SAN FRANCISCO -- — Diners in this food-obsessed city are used to exotic offerings such as chili squid salad, risotto Milanese with oxtail *ragu* and marinated noisettes of venison.

But this winter a controversial new item has been showing up in the fine print of menus at some of the hottest restaurants: a surcharge to help pay for worker health insurance.

In the hip South of Market neighborhood, the menu at Tres Agaves, a popular Mexican restaurant and tequila bar, has a small message at the bottom of the first page that says, "3.5% service charge will be added to all checks for the San Francisco affordable healthcare legislation."

At issue is the city's new effort, kicked off Jan. 9, to provide healthcare for all residents. Since then, employers with more than 20 workers are required to spend a minimum amount on health insurance, set aside money in health reimbursement accounts or pay a fee to the city's Healthy San Francisco program.

A big city jumping into universal healthcare is unprecedented. The program is being watched closely as officials from Sacramento to Washington struggle to invent ways to provide and pay for care for the uninsured.

Restaurant patrons so far don't seem to mind footing the bill for expanded healthcare. "We haven't noticed it, so I guess it's not that big a deal," said Stacy Wong, a Tres Agaves customer waiting with friends to lunch on Jalisco-style fish tacos.

But restaurateurs are irate, saying they eke out livelihoods on profit margins as slim as two pennies on the dollar. The program is burdensome for the city's 4,200 eateries, and their trade group has filed suit to stop it.

Thousands of other small to medium-size businesses, which hire many low-wage and part-time workers, also complain about the healthcare mandate's cost and are hoping that the restaurant association wins its lawsuit, said Scott Hauge, a San Francisco insurance broker and president of Small Business California, an advocacy group.

"There's no doubt that the restaurant industry is going to survive in San Francisco," even with higher health costs, said restaurant consultant Joan Simon. Medium-size cafes and bistros will need to get "leaner and meaner," while "the larger restaurants, the 'destinations,' will raise rates and do fine."

But city officials need to be careful of "shooting the golden goose" if they keep driving up menu prices, she warns. "What drives tourism partially is the reputation San Francisco has for dining," she said. "If we make it difficult for restaurants to keep affordable prices -- not just for the high-end tourists -- then we're going to see less tourism."

Perhaps San Francisco's best-known restaurateur is program supporter Mayor Gavin Newsom, a partner in five out-of-town eateries who sold his interests in the city after being elected. "No one argues that our program is perfect, but it's better than anywhere else," he said. "City Hall is not going to back away."

The restaurant surcharges are spreading. Market Street favorite Zuni Cafe charges 4% of the total bill. Others, including Delfina, a trendy Mission District trattoria, collect a flat fee of \$1 to \$2 per person.

"The major players I talked to are all doing it. It's in the dozens," said Daniel Scherotter, the executive chef and owner of an Italian restaurant in the Financial District and president of the Golden Gate Restaurant Assn. "It's a scary move, and only the bold are venturing into the territory."

But other top restaurants, such as the Slanted Door, a Vietnamese haute-cuisine hot spot, said they simply hiked food prices, preferring not to alert patrons to the new costs.

Charles Phan, executive chef and owner of the 200-seat venue with a splendid view of the Bay Bridge, said that "customers will look at surcharges and say, 'Why do I have to pay for that?'"

Phan pays as much as half the cost of health insurance for about 100 full-time employees. Another 100 part-timers get no coverage. He estimates that his healthcare costs will jump by 67% to \$500,000 this year with the new program.

Such "a constant assault" makes "every chef I talk to not want to open another restaurant in San Francisco," he said.

And owners of smaller places, with fewer than 20 employees and exempt from the healthcare requirement, say that it's become too costly to expand in the city, even when business is booming.

"We will always have 18 [employees] now," vowed Anna Weinberg, a co-owner of South, a 50-seat restaurant featuring Australian cuisine that opened in October. Weinberg plans to open her next eatery on the Westside of Los Angeles.

San Francisco costs already are among the nation's highest, experts say. "It costs me triple to hire a waiter than a New York City restaurant," Scherotter said. Health insurance costs at his Palio D'Asti are doubling to \$120,000 a year under the new program, he said.

To be sure, owners like Weinberg and Phan pride themselves on sharing the liberal-leaning social values that are as much a part of their hometown as the Golden Gate Bridge. But as employers who depend on large numbers of waiters, cooks and busboys, they insist that they're being unfairly singled out to make San Francisco the first place in the state to offer universal health services.

Local establishments, they point out, already are paying a \$9.36 hourly minimum wage, the nation's second highest and 17% higher than in any other California city. They also are the only employers in the state required by law to grant paid sick days to all workers.

The Golden Gate Restaurant Assn. has turned that gripe into a lawsuit against the city. The U.S. 9th Circuit Court of Appeals is scheduled to hear oral arguments April 17 in Pasadena.

What's next? There are no plans for a dish-washing surcharge or a fee for laundering tablecloths. But the city is considering ordering restaurant chains to put nutrition information on menus.

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