

# Regulating the hospitality industry law general essay

Law



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\n[/toc]\n \nIntroduction: Hospitality industry is controlled by the different types of federal, state, as well as local government entities. Hospitality managers should interact with these agencies in a variety of different ways, and observe all related regulations and procedures established by government. As well as, managers need to fill out forms and paperwork, acquire licenses for the operations, maintain their property to specified codes and standards, provide a safe work-place, and announce their facilities for periodic inspection.

### **Answer for question 1:**

Environmental health officer (EHO) is a individual who works to make sure the public health. Some EHOs are employed with private organization, while some are work as government agencies. EHOs are often work in teams which directed by a team leader. Normally, EHOs are highly experienced health professionals with extensive training along with education. EHOs are usually\nIn hospitality industry, the duties and responsibilities of an EHO are to ensure that all the people are working and living in healthy and safety. Also, they are dealing with a huge range of issues and the most common issues in

hospitality industry are food safety, emergency preparedness, industrial hygiene, and disease prevention. To protect the public, EHOs will provide support and services to different programs designed. An EHO may focus on one such particular area as food safety, or may be contact the health issues in a particular geographic area. Furthermore, these professionals implement laws and policies governing public health as well as the environment. EHOs will carry out examination for the investigate complaints of food contamination, health violation, and investigate work place accidents for enforcing and monitoring those laws and policies. Moreover, EHOs will keep " accurate records, collect statistics, write reports, and provide confirmation in court cases concerning violations of environmental and health regulations (Linda, 2003)". Responding to natural disasters and public health emergencies are the top visible activities of EHOs. They need to respond very rapidly and work for protecting the public from environmental and sanitation threats. In addition, the responsibility of an EHO in hospitality industry is to educate the employers and employees about the different types of health issues.

## **Occupational Safety and Health Administration ( OSHA )**

Occupational Safety and Health Administration (OSHA) is one of an agency of the Department of Labor and it was created in 1970. In hospitality industry, one of the aims of OSHA is to secure the health, welfare, and safety of individuals. With OSHA, hospitality operation will comply with the equipment specifications, safety practices, and employee communication procedures. Besides, in accordance with OSHA, to provide a safety work-place for employees, there will be providing protective clothing along with maintaining

facilities to fulfill the employees needed. Also, OSHA provides an occupational environment for employees at work that can be adapted to their psychological and physiological needs. Moreover, OSHA will supervise the workplace safety with a high level staff of inspectors called compliance officers. They will establish the safety checklists and training programs for employees. Normally, those checklists and programs are especially for those employees who will operate equipment which may cause any injuries. It is necessary to display OSHA notices on employees' rights and safety in suitable languages as well as in places where the notices can be read and seen easily. As well as, OSHA can provide the hepatitis B vaccinations for all the employees in the hospitality industry that who need to come into contact with body fluid or blood. Then, the manager will discuss with the compliance officer about the results of the inspection and need to apply for a copy of the inspection reports filed. Although the compliance officer should state a definite reason for the inspection, but usually inspections will not be announced.

Environmental Protection Agency ( EPA )

The Environmental Protection Agency ( EPA ) is one of the agency of the federal government. EPA was established in 1970 and the mission of the EPA is to " permit coordinated and effective government action of the environment." The duties of EPA is managing the waste and instituted a program which is called " superfund" to manage the cleanup of industrial waste. In the hospitality industry, EPA is becoming a controller of pesticides, as well as air and water pollution. When discharging waste, care should be taken, mostly to such toxic waste as pesticides or cleaning chemicals from the laundry areas. Newly, the EPA is started working together with the National Restaurant

Association to develop included waste management processes which would be adapted by the local governments as well as with different categories of foodservice operations. Most of the EPA's directives are implemented by local and state governments, for example, state recycling laws and public trash disposal's ordinances. Thus, a hospitality manager need to have some contact with federal government agency as it is essential to be responsive to the state and local laws. Equal Employment Opportunity Commission (EEOC) Equal Employment Opportunity Commission (EEOC) was established as a central authority in year 1978. The responsibilities of EEOC are to lead and coordinate the labors of federal agencies to put into effect all the laws which are involving to equal employment opportunity without any regard to gender, age, race, religion, or color. In hospitality industry, EEOC will ensure that the employees in the company are receive equal pay for the equal work, as well as prevent any discrimination on the basis of gender, color, race, religious preference, and such states of health as disability or pregnancy. Moreover, EEOC can able to help employees to sue or investigate employers or companies who done the sexual harassment of either gender. In addition, EEOC will not only to control the act of discrimination but also will help the employees who feel their rights are being violated by employers or companies. Food and Drug Administration (FDA) In hospitality industry, FDA is playing a main role. The duty of FDA is to ensure the proper of food labeling along with the safety of food. Conclusion for question 1: Although, a hospitality manager need to know what the federal government agencies can apply in his or her operation, but, it is impossible that a hospitality manager to have knowledge about all the requirements as there is more

than thousands of federal, local agencies, state, officers, departments, and individuals regulating business today. However, it is important for the purpose to understand how to resolve the conflicting regulations, to understand the major entities responsible for the regulations, to have knowledge about the process for take action to an inquiry or complaint from regulatory entities, and Stay abreast of changes in rules which will effect the industry's sector. Introduction for question 2: According to Alenxis, " Legal duties are distinct from moral or implied duties, since when a legal duty is violated; there may be consequences under the law (2003)". The responsibilities and objectives of a hospitality operator are to reach a high profit for the owner of the company as well as to make sure that the customers are satisfied to the services and products. In a hospitality industry, manger will acts behind the scenes with many daily duties for all the operations of the company. There might include supervising employees, marketing, maintenance, security, and also food and beverages operations. Besides, hospitality operatorAnswer for question 2In hospitality industry, hospitality operators can also defined as the hospitality managers. As of the various types of facilities they operate, hospitality managers can run into various types of duties. These may include the following: Duties of careGenerally, duties of care are those duties which to take care such as all the cases' situations realistic to observe that those visitors can be safe in using any of the premises for the reasons for which is allowed or requested by the occupier to be there. According to Loganathan (2009), " In tort law, duties of care are legal obligation imposed on an individual requiring that he adheres to a stanrdard of reasonable care while performing any act that

could foreseeably harm others." Hospitality operators owing a duty of care to those persons who enter their establishments and some duties of care are quite simple. Hospitality operator provides a reasonably safe premise. This may include all the interior of guestroom, dining room, public areas, as well as the exterior areas that make up total physical facilities of the operator.

## **Standards of Care**

A suitable standard of care can be determined by in part on the level of services that a guest might reasonably look forward to search in a hospitality facility. In an example, a customer is departing on a one week cruise and there is reasonable to provide the staff of the ship as well as a full-time doctor to the customer. But, the same customer visiting a quick-service restaurant is not look forward to find a doctor obtainable, the customer might suffer an asthma and looking for the medical care. Usually, standard of care of the ship is including the medical treatment but the restaurant's is not. Thus, many disputes which related negligence and liability in the hospitality industry surrounding the question of what can standard of care can do. Same with the law itself, these standards of care are usually evolving at all the time. Since the standards are always changing, a hospitality operator, it is necessary to apply the common thoroughness to achieve the standards of care. As the standards of care that a hospitality operator applies could be evaluate during litigation by those people who are not familiar. Thus, the hospitality operator should strive to stay stable for changing the technology as well as the procedures. Theories of liability: Although the entire hospitality operator try the best effort of management, accidents that involving people still can happened in hospitality facilities. Besides,

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employees and customers are the subject to many of the same risks in a hospitality industry which they are subject to outside the facilities. As a hospitality operator, the responsibilities is not to make sure that accidents must ever happen in own facilities as it is impossible that accident will never happen. Hospitality operator should control all the situations as safe as possible as well as can react when an accident does happen. The legal system will be designed to hold the manager along with his/her operation accountable.

## **Reasonable Care**

Sir Smith defines reasonable care as " Reasonable care is the level of care which an ordinary and reasonable person would use under comparable circumstances (wiseGeek, 2003)." A hospitality operator has a duty which is to provide a secure and safe environment to guests and employees. The theory of " reasonability" sets the standard of care that managers need to provide to the guests as well as employees and the standard is exist in the theory of reasonable care. With reasonable care, hospitality operators can approve the harmful conditions that exist or might reasonably foresee. Tort: Tort is explained in Lectric Law Library as " A negligent or intentional civil wrong not arising out of a contract or statute" (1995). Tort is divided in to two groups which are intentional and unintentional. Intentional torts include assault, battery, defamation, and intentional infliction of emotional distress while unintentional torts include negligence and gross negligence. Many legal duties that involve torts will always face by hospitality operator. The following are the main types of torts that dedicated against clients: Negligence: Negligence is explained in <https://assignbuster.com/regulating-the-hospitality-industry-law-general-essay/>



Winfield and Jolowicz on Tort as " the breach of a legal duty to take care which results in damage, undesired by the defendant, to the plaintiff" (2010). Negligence is the most common unintentional tort. Negligence is legally presents once the following four situations have been exist: A legal duty of care is exist. The defendant has unsuccessful to give the standard of care necessary to fulfill that duty. Failure of the defendant to meet the legal duty was proximate cause of the harm. The claimant was suffered or injured damages. Assume, for example, the sidewalk of a hotel is not shoveled during a strong snowstorm. A guest walked by, then slips, falls, and injured his knee. The hotel can be found negligent once litigation follows along with the judge decides that the hotel will know or have foreseen that slippery situation would cause injury or may be a death. As well as, the hospitality operator didn't do what a reasonable facility manager should do for protecting his/her customers. A hospitality manager not only has responsible for own actions, other than, under the respondent superior's doctrine, may also be apprehended accountable for the occupational acts for the employees. Normally, the liability will attach once a risky act of situation was foreseeable but no action was taken to prevent the accident or inform clients.

## **Gross Negligence**

Gross negligence is explained in The Free Dictionary as " a conscious and voluntary disregard of the need to use reasonable care, which is likely to cause foreseeable grave injury or harm to persons, property, or both" (2013). it is also can explained as the unruly failure to use even the small amount of the reasonable care. When organizations or individuals have ignored the

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others people safety, they considered are gross negligent. The different between negligence and gross negligence are very important as normally the penalty for the gross negligence is greater than the ordinary negligence itself. A person found to have been gross negligence can judged punitive damages to give as an example or prevent others from doing the similar act.

Serve food and beverages fit for consumption: This duty of care is shared with those suppliers who provide products to the foodservice operator, as well as will also include the method that used by a manager to prepare and serve food and beverages. With owed a duty under the tort of negligence by the restaurateur, the restaurateur is going into a contractual relationship with the restaurant customer. Besides, the general law rule is " let the buyer be aware", which the buyer need to exercise care when he/she making purchases and he/she should bear the consequence if does not (Section 16 of the Sale of Goods Act). In formal restaurant, the menu need to posted at outside as an attraction to the passer-by customer or passed to customers by the waiter/ waitress. It is just an invitation to treat that without any legal effect. If the item that selected by the customer are available, the waiter/waitress should take the order, thus, the contract are formed. But, the contract will not formed once the item that customer selected is unavailable as well as the waiter/waitress need apologies to the misunderstanding and reject the offer of the customer. Conclusion : A hospitality operator needs to provide a safe and secure environment for the customers and employees. Thus, customers can stay in a safety place as well as employees can work without any hazard. Moreover, it can also reduce the claims from customers if hospitality operators have done their jobs properly. Hospitality operator

should know how to control the situation when accident happens and also to supervise their employees to the right way. As I know, hospitality operators need to complete their job according the laws without any cheating or receive any bribes to increase the reputation.