

CHAPTER 2

GOVERNMENT AGENCIES THAT IMPACT THE HOSPITALITY INDUSTRY

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“TRISHA SANGUS HERE, how can I help you?” Trisha asked as she picked up the telephone in her kitchen. It was a Saturday, one of her days off.

Lance Dani, front office supervisor at the hotel, was on the other end of the line. “Ms. Sangus, I’m really sorry to call you at home, but we have a problem at the front desk. It’s Coach Keedy from Northern University. He’s ready to check out.”

Trisha liked Coach Keedy. His team competed against the local university twice a year, and Trisha considered herself fortunate to have acquired his business. Despite the fact that he brought a large number of energetic college students to her hotel each time he arrived, the students were generally well mannered and caused no difficulty. She certainly welcomed the weekend business they brought to town. Coach Keedy’s team had lost the night before, and she knew when that happened, he would take it hard. It tended to be a bit unpleasant for everyone the next day.

“What seems to be the problem?” Trisha inquired.

“Well,” Lance replied excitedly, “the coach is refusing to pay his entire bill. He says that, as a nonprofit organization, his college is tax-exempt, and he won’t pay the sales tax or the local occupancy tax on his rooms. He’s very upset. I asked him for a tax-exemption certificate, but he doesn’t have any documentation proving his tax-exempt status. He said any fool would know a college is tax-exempt. Those were his exact words.”

I was afraid this might happen, thought Trisha. In the past, her hotel had billed Coach Keedy’s school directly for any room charges incurred when the team stayed at the hotel. However, the school recently changed its billing policy. Now, the coaches

were expected to pay a team’s hotel bill out of their own pockets, then seek reimbursement from the school. While she was sure that the new policy had some financial merit for the school, it was a change that Trisha felt had some distinct operational disadvantages, and this was one of them. When the hotel controller’s office billed the school directly, the complex issue of taxation was handled smoothly. The accountants for both the hotel and the school knew the intricacies of tax-exempt status. Dealing with customers across the front desk was another matter.

“How does he want to pay for the charges?” asked Trisha.

“With a personal check,” replied Lance. “But he asked me to find a copy of the school’s federal tax-exemption document.”

Trisha knew that the college where Coach Keedy worked had submitted a federal identification number authorizing a tax exemption. The hotel controller’s office had the document on file.

“Okay,” said Trisha, “we know the coach represents a tax-exempt institution, and we do have his federal ID number on file, but by law, we’re not allowed to deduct the tax if he pays with a personal check. Charge him the tax, just as the regulations require us to do. Explain that you talked to me, and I authorized it. If he wants a further explanation, call me back and I will talk to him and explain why. I also think it would be a good idea for you and me to get together tomorrow to review federal tax-exemption status, state taxes, and local option taxes, such as the occupancy tax. I think I can clear up some misunderstandings you seem to have. Remember, call me back if you have more trouble. See you tomorrow.”

“Okay, Ms. Sangus, goodbye,” Lance replied as he

slowly hung up the telephone and stepped out of his office to explain the situation to the coach. Lance had a pretty good idea that, despite his best efforts, the

coach would still want to talk to his boss. He also had a good idea that tomorrow's meeting with Ms. Sangus would be one in which note taking would be required.

IN THIS CHAPTER, YOU WILL LEARN:

1. How federal governmental agencies are involved in regulating the hospitality industry.
2. How to analyze the various roles of state governmental agencies that regulate the hospitality industry.
3. How to identify local governmental agencies involved in regulating the hospitality industry.
4. How to recognize those national and international agencies and departments charged with monitoring and regulating the travel industry.
5. How to manage conflicting regulations.
6. How to properly respond to an official inquiry or complaint from a regulatory entity.
7. How to keep abreast of regulatory changes.

2.1 FEDERAL REGULATORY AND ADMINISTRATIVE AGENCIES

The hospitality industry is regulated by a variety of federal, state, and local governmental entities. Hospitality managers must interact with these agencies in a variety of different ways, and observe all applicable procedures and regulations established by government. Managers must fill out forms and paperwork, obtain operating licenses, maintain their property to specified codes and standards, provide a safe working environment, and open up their facilities for periodic inspection. The purpose of this chapter is to help you understand the scope of the regulatory process and be able to respond to questions from these regulatory agencies in a way that is both legally correct and sound from a business perspective.

With thousands of federal, state, and local agencies, departments, offices, and individuals regulating business today, it is simply not possible for a hospitality manager to be knowledgeable about all the requirements that may apply to his or her operation. It *is* possible, however, to take these four actions:

1. Be aware of the major entities responsible for regulation.
2. Understand how to resolve conflicting regulations.
3. Be aware of the process for responding to an inquiry or complaint from a regulatory entity.
4. Stay abreast of changes in regulations that affect your segment of the industry.

Internal Revenue Service (IRS)

The Internal Revenue Service (www.irs.gov) is a division of the United States Department of Treasury. The stated mission of the IRS is to “Provide America’s taxpayers top-quality service by helping them understand and meet their tax responsibilities, and by applying the tax law with integrity and fairness to all.” Although it is unlikely that the agency responsible for collecting taxes will be popular in any country, the right of the IRS to charge an individual with a criminal act makes it deserving of a manager’s thoughtful attention.

In the hospitality industry, managers perform two separate roles when interacting with the IRS. A manager is both a taxpayer to the federal government

(by paying income tax on the profits of a business) and a tax collector for the federal government (by withholding individual employee taxes on income). The IRS requires businesses to:

- File quarterly income tax returns and make payments on the profits earned from business operations (Form 941). Taxes must be filed on or before the last day of the month following the end of each calendar quarter.
- File an Income and Tax Statement with the Social Security Administration on or before the last day of February (Form W-3).
- Withhold income taxes from the wages of all employees (as specified in Circular E). Withheld employee taxes are deposited with the IRS at regular intervals (Form 8109). Employee withholding taxes must be paid in one of three ways:
 1. *Quarterly*, if the total amount of withheld tax for the period is less than \$500;
 2. *Once a month*, if the total amount of withheld tax is between \$500 and \$3,000; or
 3. *Within three working days* of a payroll issuance, if the withheld amount is greater than \$3,000.
- Report all employee income earned as tips (Form 8027), and withhold taxes on the tipped income.
- Record the value of meals charged to employees when the meals are considered a portion of an employee's income.
- Record all payments to independent contractors, and file any forms listing those payments (Forms 1096 and 1099).
- Furnish a record of withheld taxes to all employees on or before January 31 (Form W-2) and maintain copies of this record for four years.

The IRS ensures that businesses pay their taxes through periodic examinations of their financial accounts and tax records. These examinations are called audits. A hospitality manager must respond if the IRS notifies him or her of a forthcoming audit. The manager should also consult a certified public accountant (CPA) or an attorney that specializes in tax audits as soon as possible to ensure that the appropriate documents are prepared and in order.

It would be an oversimplification to state that federal tax laws are complex—they are hugely complex. As a hospitality manager, you may be responsible for submitting or filing the taxes owed by a business, so it is important that you understand the role that you play in ensuring your company's compliance with federal tax laws.

For example, the IRS considers tips and gratuities given to employees by guests of the business as taxable income. As such, this income must be reported to the IRS, and taxes, if due, must be paid on that income. In addition, employers are responsible for assisting the IRS in this reporting process by collecting tip-reporting forms from employees and forwarding the information to the IRS.

Figure 2.1 is a copy of IRS Publication 531. This publication explains the regulations related to an employee's reporting of tipped income. It is a good example of the instructions the IRS gives an individual taxpayer. Note that the IRS explains what is required and how the requirements can be met.

Just as employees have specific responsibilities for reporting tipped income, the employer also has responsibilities imposed by the IRS. For a complete list of a business's tax responsibilities, and to obtain copies of various tax forms, visit the IRS website at www.irs.ustreas.gov and look up employment taxes in the Business tab. Search the Web 2.1 will guide you as you examine these requirements.

IRS Publication 531: Reporting Tip Income

Keeping a Daily Tip Record

Why keep a daily tip record?

You must keep a daily tip record so you can:

- Report your tips accurately to your employer
- Report your tips accurately on your tax return, and
- Prove your tip income if your return is ever questioned.

How to keep a daily tip record.

There are two ways to keep a daily tip record. You can either:

1. Write information about your tips in a tip diary, or
2. Keep copies of documents that show your tips, such as restaurant bills and credit card charge slips.

You should keep your daily tip record with your personal records.

If you keep a tip diary, you can use Form 4070A, Employee's Daily Record of Tips. To get a year's supply of the form, ask the Internal Revenue Service (IRS) or your employer for Publication 1244, Employee's Daily Record of Tips and Report to Employer. Each day, write in the information asked for on the form.

If you do not use Form 4070A, start your records by writing your name, your employer's name, and the name of the business if it is different from your employer's name. Then, each workday, write the date and the following information:

- Cash tips you get directly from customers or from other employees,
- Tips from credit card charge customers that your employer pays you,
- The value of any noncash tips you get, such as tickets, passes, or other items of value,
- The amount of tips you paid out to other employees through tip pools or tip splitting, or other arrangements, and the names of the employees to whom you paid the tips. Do not write in your tip diary the amount of any service charge that your employer adds to a customer's bill and then pays to you and treats as wages. This is part of your wages, not a tip.

Figure 2.1 Reporting tip income.

Search the Web 2.1

Go online to www.irs.gov.

1. Select: Forms and Publications.
2. Select: Publication Number.
3. Select: Publication 15: Circular E, Employers Tax Guide.

Read the portion of Publication 15 that refers to an employer's responsibilities related to the reporting of tip income by employers.

Occupational Safety and Health Administration (OSHA)

OSHA (www.osha.gov) is an agency in the Department of Labor. It was created in 1970 after the passage of the Occupation Safety and Health Act. The purpose of the act was “to assure, so far as possible, every working man and woman in the nation safe and healthful working conditions.” Despite criticism from many in business, OSHA has taken an aggressive role in protecting workers’ rights.

All businesses, including hospitality operations, must comply with the extensive safety practices, equipment specifications, and employee communication procedures mandated by OSHA. Specifically, businesses are required to:

- Provide a safe workplace for employees by maintaining facilities and providing protective clothing, in accordance with OSHA safety and health standards (these standards will vary for different types of workplace environments).
- Purchase equipment that meets OSHA specifications of health and safety.
- Establish safety checklists and training programs for employees, especially for those who will operate equipment that may cause injury.
- Report to OSHA within 48 hours any workplace accidents that result in a fatality or require the hospitalization of five or more employees.
- Maintain a record of work-related injuries or illnesses (OSHA 200 Log), and file that record once a year. Employers are also required to post an annual summary of the prior year’s injuries and illnesses.
- Schedule at least one employee trained in first aid on each work shift.
- Display OSHA notices on employee rights and safety in appropriate languages, in places where the notices can be easily read.
- Provide all employees with access to information on any toxic or harmful substances used in the workplace, and keep records certifying that employees have reviewed the information.
- Offer hepatitis B vaccinations for employees who may have come into contact with blood or body fluids.

OSHA monitors workplace safety with a large staff of inspectors called compliance officers. Compliance officers visit workplaces during regular business hours and perform unannounced inspections to ensure that employers are operating in compliance with all OSHA health and safety regulations. In addition, compliance officers are required to investigate any complaints of unsafe business practices. Figure 2.2 is an

Section 8, Title: INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

In order to carry out the purposes of this Act, the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized:

(1) to enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer; and

(2) to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee.

Figure 2.2 OSHA inspection provisions.

excerpt of the Occupational Health and Safety Act that gives the agency authority to enter a business to investigate worker safety.

Hospitality managers have the right to accompany OSHA compliance officers during an inspection, and managers should make it a point of doing so, for two reasons. First, the manager may be able to answer questions or clarify procedures for the compliance officer; and second, the manager should know what transpired during the inspection. Afterward, the manager should discuss the results of the inspection with the compliance officer and request a copy of any inspection reports filed. Generally, inspections are not announced, although the compliance officer must state a specific reason for the inspection.

The penalties for violating OSHA regulations can be severe and costly. Figure 2.3 details the penalties OSHA can assess against a business. Because of the stringent penalties for noncompliance, it is important that hospitality managers ensure that their workplace is safe. As stressed in this book several times, the best way to avoid accidents, lawsuits, and penalties is to adopt a philosophy of preventative management. Where worker safety is concerned, this may be as simple as providing information or as complex as developing an employee-training program.

One example of the type of information OSHA requires to be posted or provided is the material safety data sheet (MSDS). An MSDS is a manufacturer's statement

OSHA Act of 1970

Section Title: Penalties

Section Number: 17

(a) Any employer who willfully or repeatedly violates the requirements of section 5 of this Act, any standard, rule, or order promulgated pursuant to section 6 of this Act, or regulations prescribed pursuant to this Act, may be assessed a civil penalty of not more than \$70,000 for each violation, but not less than \$5,000 for each willful violation.

(b) Any employer who has received a citation for a serious violation of the requirements of section 5 of this Act, of any standard, rule, or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, shall be assessed a civil penalty of up to \$7,000 for each such violation.

(c) Any employer who has received a citation for a violation of the requirements of section 5 of this Act, of any standard, rule, or order promulgated pursuant to section 6 of this Act, or of regulations prescribed pursuant to this Act, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to \$7,000 for each violation.

(d) Any employer who fails to correct a violation for which a citation has been issued under section 9(a) within the period permitted for its correction (which period shall not begin to run until the date of the final order of the Commission in the case of any review proceeding under section 10 initiated by the employer in good faith and not solely for delay or avoidance of penalties), may be assessed a civil penalty of not more than \$7,000 for each day during which such failure or violation continues.

(e) Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, and that violation caused death to any employee, shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both; except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than \$20,000 or by imprisonment for not more than one year, or by both.

(f) Any person who gives advance notice of any inspection to be conducted under this Act, without authority from the Secretary or his designees, shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months, or by both.

(g) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both.

Figure 2.3 OSHA penalties for noncompliance.

(h) (1) Section 1114 of title 18, United States Code, is hereby amended by striking out "designated by the Secretary of Health, Education, and Welfare to conduct investigations, or inspections under the Federal Food, Drug, and Cosmetic Act" and inserting in lieu thereof "or of the Department of Labor assigned to perform investigative, inspection, or law enforcement functions."

(2) Notwithstanding the provisions of sections 1111 and 1114 of title 18, United States Code, whoever, in violation of the provisions of section 1114 of such title, kills a person while engaged in or on account of the performance of investigative, inspection, or law enforcement functions added to such section 1114 by paragraph (1) of this subsection, and who would otherwise be subject to the penalty provisions of such section 1111, shall be punished by imprisonment for any term of years or for life.

(i) Any employer who violates any of the posting requirements, as prescribed under the provisions of this Act, shall be assessed a civil penalty of up to \$7,000 for each violation.

(j) The Commission shall have authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

(k) For purposes of this section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(l) Civil penalties owed under this Act shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States brought in the United States district court for the district where the violation is alleged to have occurred or where the employer has its principal office.

Figure 2.3 (Continued)

» ANALYZE THE SITUATION 2.1

CARLOS MAGANA WAS A Spanish-speaking custodian working in a health-care facility kitchen. Bert LaColle was the new food and beverage director. Mr. LaColle instructed Mr. Magana to clean the grout between the red quarry kitchen tile with a powerful cleaner that Mr. LaColle had purchased from a chemical cleaning supply vendor. Mr. LaColle, who did not speak Spanish, demonstrated to Mr. Magana how he should pour the chemical directly from the bottle to the grout, then brush the grout with a wire brush until it was white.

Because the cleaner was so strong, and because Mr. Magana did not wear protective gloves, his hands were seriously irritated by the chemicals in the cleaner. In an effort to lessen the irritation to his hands, Mr. Magana decided to dilute the chemical. He added water to the bottle of cleaner, not realizing that the addition of water would cause toxic fumes. Mr. Magana inhaled the fumes while he continued cleaning, and later suffered serious lung damage as a result.

Mr. LaColle was subsequently contacted by OSHA, which cited and fined the facility for an MSDS violation. Mr. LaColle maintained that MSDS statements, including the one for the cleaner in question, were in fact available for inspection by employees.

1. Did the facility fulfill its obligation to provide a safe working environment for Mr. Magana?
2. What should Mr. LaColle have done to avoid an OSHA violation?

detailing the potential hazards and proper methods of using a chemical or toxic substance. The MSDS is intended to inform workers about the hazards of the materials they work with so that they can protect themselves and respond to emergency situations. The law states that employees must have access to MSDSs and be assisted in reading and understanding them. OSHA inspectors are responsible for ensuring that MSDSs are placed in areas accessible to workers.

An OSHA Hazard Communication provides a guide for what a standard MSDS should include:¹

- The material's identity—including its chemical and common names
- Hazardous ingredients (even in parts as small as 1 percent)
- Cancer-causing ingredients (even in parts as small as 0.1 percent)
- A list of physical and chemical hazards (stability, reactivity) and characteristics (flammable, explosive, corrosive, etc.)
- A list of health hazards, including:
 - Acute effects, such as burns or unconsciousness, which occur immediately; and chronic effects such as allergic sensitization, skin problems, or respiratory disease, which build up over a period of time
 - If the material is a known carcinogen
 - Limits to which a worker can be exposed, specific target organs likely to sustain damage, and medical problems that can be aggravated by exposure
 - Precautions and safety equipment and emergency and first aid procedures
- Specific firefighting information
- Precautions for safe handling and use, including personal hygiene
- The identity of the organization responsible for creating the MSDS, date of issue, and emergency phone number

Figure 2.4 is an excerpt example of an MSDS. The specific product detailed is Jet Dry, a trademarked item distributed by Economics Laboratories for use in commercial dishwashers. The point here is that all hospitality managers must be aware of the sometimes very specific requirements that federal agencies place on them. The requirements can be numerous, and they change frequently. One way to stay current with your obligations as an operator is to log on to OSHA's website (www.osha.gov) and click on What's New.

Environmental Protection Agency (EPA)

The EPA (www.epa.gov) is an independent agency of the federal government. Established in 1970, the EPA's mission is to “permit coordinated and effective government action on behalf of the environment.”² In the hospitality industry, the EPA serves as a regulator of pesticides, as well as water and air pollution. Care must be taken when discharging waste, particularly toxic waste such as pesticides or cleaning chemicals from laundry areas. In 1996, new amendments were added to the Safe Drinking Water Act of 1974, which is a federal law that empowers the EPA to set standards for drinking water quality and to oversee the states, towns, and water suppliers that implement and enforce those standards. The EPA also monitors indoor air-quality issues (such as smoking in commercial buildings).

Many EPA directives are carried out or implemented by state and local governments, such as state recycling laws and municipal ordinances for trash disposal. Thus,

¹OSHA, *Inspection Procedures for the Hazard Communication Standard*, OSHA CPL 02-02-038 [CPL 2-2.38D], March 20, 1998, Appendix D, “Guide for Reviewing MSDS Completeness,” www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=1551.

²U.S. Environmental Protection Agency, *Environmental Merit Awards 2011*, www.epa.gov/region1/ra/ema/pdfs/EMA2011_Program.pdf, p. 9. Accessed July 5, 2011.

ECONOMICS LABORATORY—JET DRY (934984)**MATERIAL SAFETY DATA SHEET**

FSC: 6850. NIIN: 00F000893

Manufacturer's CAGE: 85884

Part No. Indicator: A

Part Number/Trade Name: JET DRY (934984)

General Information

Company's Name: ECONOMICS LABORATORY, INC.

Company's Emergency Ph #: (612) 293-2233

Record No. For Safety Entry: 001

Tot Safety Entries This Stk#: 001

Date MSDS Prepared: 01JAN85

Safety Data Review Date: 22JAN85

MSDS Serial Number: BBHKT

Ingredients/Identity Information

Proprietary: YES

Ingredient: PROPRIETARY

Ingredient Sequence Number: 01

Physical/Chemical Characteristics

Appearance and Odor: CLEAR GREEN LIQUID--NO SPECIFIC ODOR.

Boiling Point: 212F

Specific Gravity: 1.022

Solubility in Water: COMPLETE

Percent Volatiles by Volume: 90%

Fire and Explosion Hazard Data

Flash Point: NON-FLAMMABLE

Extinguishing Media: ALL RECOGNIZED METHODS ARE ACCEPTABLE.

Reactivity Data

Stability: YES

Hazardous Decomp Products: OXIDES OF CARBON

Hazardous Poly Occur: NO

Health Hazard Data

Signs/Symptoms of Overexp: MAY CAUSE MINOR EYE IRRITATION, BURNING SENSATION.

Emergency/First Aid Proc: FLUSH EYES WITH PLENTY OF WATER. INGESTION: DO NOT INDUCE VOMITING. DRINK LARGE QUANTITIES OF WATER OR MILK.

Precautions for Safe Handling and Use

Steps if Matl Released/Spill: MOP UP SPILL. WASH AREA WITH WATER.

Waste Disposal Method: CONSULT LOCAL REGULATIONS.

Precautions—Handling/Storing: KEEP FROM FREEZING.

Label Emergency Number: (612) 293-2233

Figure 2.4 An MSDS for Jet Dry.

while you, as a hospitality manager, may have little contact with the federal agency, it is important to be fully aware of your state and local laws in these areas.

Food and Drug Administration (FDA)

The FDA (www.fda.gov) plays an important role in the hospitality industry. It is responsible for ensuring the proper labeling of food and the safety of food. As a food-service manager, you will encounter the work of the FDA whenever you purchase food that has a mandatory FDA nutrition label. In addition, the FDA's Model Food Service Sanitation Ordinance is used by many state and community health departments as a basis for their own foodservice inspection programs. You can find the 2009 FDA Ordinance online at:

- www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodCode/FoodCode2009/

Or, if you wish to view a state-adopted Food Service Sanitation Ordinance, you can view the ordinance recently adopted by Montgomery County at:

- www.montgomeryco.com/health/Environmental%20Health/Food%20Service%20Sanitation%20Ordinance.pdf

Foodservice operators also need to be aware of the FDA's precise definitions governing the use of nutritional and health-related terms. A restaurant that prints phrases such as "low-calorie," "light," or "cholesterol-free" in their menus must make sure that the recipes for those dishes meet the FDA's requirements for those statements. These and other menu-labeling requirements will be discussed more fully in Chapter 12, "Your Responsibilities When Serving Food and Beverages."

Equal Employment Opportunity Commission (EEOC)

The Equal Employment Opportunity Commission was established by Title VII of the Civil Rights Act of 1964 and went into effect on July 2, 1965. Essentially, this agency enforces laws against discrimination in employment. Figure 2.5 lists the specific laws that are enforced by the EEOC. The following general areas fall under the jurisdiction of the EEOC:

- Sexual harassment
- Race/color discrimination
- Age discrimination
- National origin discrimination
- Pregnancy discrimination

Title VII of the Civil Rights Act
 Equal Pay Act of 1963
 Age Discrimination in Employment Act of 1967 (ADEA)
 Rehabilitation Act of 1973, Sections 501 and 505
 Titles I and V of the Americans with Disabilities Act of 1990 (ADA)
 Civil Rights Act of 1991

Figure 2.5 Laws enforced by the Equal Employment Opportunity Commission.

- Religious discrimination
- Portions of the Americans with Disabilities Act

Some of these areas will be discussed in detail in Chapter 8, “Legally Managing Employees.” The impact of the EEOC on the daily tasks of the hospitality manager is obvious. Consider, for example, the hotel manager who seeks to schedule a Christian to work on Christmas Day. The hotel is, of course, open. The question that might arise is whether the needs of the manager, who must staff the hotel, should take precedence over those of the worker, who desires a day off on the basis of his or her religious convictions.

Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against individuals because of their religious beliefs when hiring and firing. The act also requires employers to reasonably accommodate the religious practices of an employee or prospective employee, unless doing so would create an undue hardship upon the employer. Flexible scheduling, voluntary substitutions or swaps, job reassignments, and lateral transfers are examples of accommodating an employee’s religious beliefs. The question of whether a manager could “reasonably” accommodate the request of a Christian worker to be off on Christmas Day is complex. The point to be remembered, however, is that managers are not free to act in any manner they desire, but the federal government, through the requirements of the EEOC, also plays a role in the actions of management.

The EEOC also investigates complaints by employees who think they have been discriminated against. Businesses that are found to have discriminated against employees can be ordered to compensate the employee(s) for damages, such as lost wages, attorney fees, and punitive damages.

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)

The Bureau of Alcohol, Tobacco, Firearms and Explosives (www.atf.gov) is responsible for enforcing all federal laws and regulations governing the manufacture and sale of alcohol, tobacco, firearms, and explosives; as well as for investigating incidents of arson. Formerly, the entire ATF was housed within the U.S. Department of Treasury, just as the IRS is, because it enforces the payment of federal taxes on the production of alcohol and the sale of alcoholic beverages. However, on January 24, 2003, pursuant to the creation of the Department of Homeland Security, the law enforcement functions of the ATF were transferred to the Department of Justice and the tax and trade functions of the ATF stayed with the Treasury Department under the newly created Alcohol and Tobacco Tax and Trade Bureau (www.ttb.gov).

Hospitality managers will interact with the ATF in the following ways:

- Retail sellers of alcohol—including bars, restaurants, and hotels—must pay a special federal liquor tax each year (IRS Form 11, Special Tax Return). They will receive a Special Tax Stamp showing proof the tax was paid and must keep this stamp on the premises, available for inspection.
- Alcohol vendors are not permitted to mix cocktails in advance of a sale and may not reuse emptied liquor bottles to store mixed cocktails.
- Operators must keep records, invoices, and receipts of all alcohol purchased.
- Operators must properly dispose of empty liquor bottles and may not reuse or sell them.

In its publication “P-5170.2, Federal Liquor Laws and Regulations for Retail Dealers,” published in 1995, the ATF specifically dictates the way liquor retailers should handle empty liquor bottles. An excerpt from P-5170.2 is presented in

P-5170.2

Any retail dealer, or agent or employee of such dealer, who refills any liquor bottle with distilled spirits, or who reuses any liquor bottle by adding distilled spirits or any substance (including water) to the original contents is subject to a fine of not more than \$1,000 or imprisonment for not more than 1 year, or both.

Disposition of liquor bottles

The possession of used liquor bottles by any person other than the one who emptied the contents thereof is prohibited, except that this prohibition shall not:

(1) prevent the owner or occupant of any premises on which such bottles have been lawfully emptied from assembling the same on such premises

(i) for delivery to a bottler or importer on specific request for such bottler or importer;

(ii) for the destruction, either on the premises on which the bottles are emptied or elsewhere, including disposition for purposes which will result in the bottles being rendered unusable as bottles; or

(iii) in the case of unusual or distinctive bottles, for disposition as collector's items or for other purposes not involving the packaging of any products for sale;

(2) prevent any person from possessing, offering for sale, or selling such unusual or distinctive bottles for purposes not involving the packaging of any product for sale; or

(3) prevent any person from assembling used liquor bottles for the purpose of recycling or reclaiming the glass or other approved liquor bottle material.

Any person possessing liquor bottles in violation of law or regulations is subject to fine of not more than \$1,000, imprisonment for not more than 1 year, or both.

Figure 2.6 Refilling, reusing, and disposing of liquor bottles.

Figure 2.6. Note the severe penalties assessed against businesses that do not comply with this regulation. The ATF enforces these regulations with its own officers, who conduct inspections during an operation's regular hours of business. Additional information on the regulations covering the sale of alcohol is included in Chapter 12, "Your Responsibilities When Serving Food and Beverages."

Department of Labor (DOL)

The U.S. Department of Labor (www.dol.gov) was established in 1913 to "foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment."³

Today, the department is charged with preparing the U.S. workforce for new and better jobs, and for ensuring the adequacy of America's workplaces. It is responsible for the administration and enforcement of more than 180 federal laws, which govern the protection of workers' wages, health and safety, employment, and pension rights; equal employment opportunity; job training; unemployment insurance and workers' compensation programs; collective bargaining; and collecting, analyzing, and publishing labor and economic statistics. Following is a brief description of some of the principal federal labor-related regulations most commonly applicable to hospitality businesses.

³U.S. Department of Labor, "The Organic Act of the Department of Labor," March 4, 1913, www.dol.gov/oasam/programs/history/organact.htm. Accessed July 2011.

Wage and Hours

The Fair Labor Standards Act (FLSA) prescribes standards for wages and overtime pay, which affect most private and public employment. The act is administered by the Wage and Hour Division of the Employment Standards Administration. It requires employers to pay covered employees the federal minimum wage and overtime of one-and-one-half times the regular wage. It restricts the hours that children under 16 can work and forbids their employment in certain jobs deemed too dangerous. This agency also establishes guidelines for tip credits, meal credits, and uniform purchases. In Chapter 8, “Legally Managing Employees,” we will look at specific provisions of the FLSA that hospitality managers must keep in mind.

Pensions and Welfare Benefits

The Employee Retirement Income Security Act (ERISA) of 1974 regulates employers who offer pension or welfare benefit plans for their employees. This area of the Labor Department is also responsible for reporting requirements for the continuation of health-care provisions, required under the Comprehensive Omnibus Budget Reconciliation Act of 1985 (COBRA).

Plant Closings and Layoffs

These types of occurrences may be subject to the Worker Adjustment and Retraining Notification Act (WARN). WARN protects employees by requiring early warning of impending layoffs or plant closings. WARN is administered by a special division of the Department of Labor.

Employee Polygraph Protection Act

This law, enacted in 1988, bars most employers under most circumstances from using lie detectors on employees or prospective employees. However, the law does permit employers to request that an employee undertake such a test in connection with any ongoing investigation into an incident that resulted in loss to the employer. Results of the lie detector test are not to be shared with anyone except the examiner, the employer, or those so ordered by the courts.

Family and Medical Leave Act

This law, the FMLA, requires employers with 50 or more employees to grant up to 12 weeks of unpaid, job-related leave to eligible employees for the birth or adoption of a child, or for the serious illness of the employee or a family member. These provisions and others that relate to hiring and managing employees are discussed in Chapter 7, “Legally Selecting Employees,” and Chapter 8, “Legally Managing Employees.”

It is important to note that other federal agencies besides the Department of Labor also enforce laws and regulations that affect employers. As discussed earlier in this chapter, laws that ensure nondiscrimination in employment are generally enforced by the Equal Employment Opportunity Commission. The Taft-Hartley Act, which regulates a wide range of unionization issues, is enforced by the National Labor Relations Board.

Department of Justice (DOJ)

In the United States, the Department of Justice (www.usdoj.gov) is headed by the U.S. attorney general. Although the position of attorney general has existed since the founding of the republic, it was not until 1870 that a separate Department

of Justice was created, bringing together under the authority of the attorney general the activities of U.S. attorneys, U.S. marshals, and others. The Justice Department investigates and prosecutes federal crimes, represents the United States of America in court, manages the federal prisons, and enforces the nation's immigration laws.

The Department of Justice also enforces Title III of the Americans with Disabilities Act (ADA), which states that hospitality operations must remove barriers that can restrict access or the full enjoyment of amenities by people with disabilities. The requirements for complying with this section of the ADA are discussed in Chapter 10, "Your Responsibilities as a Hospitality Operator to Guests."

U.S. Citizenship and Immigration Services (USCIS)

Most hospitality managers will interact with the U.S. Citizenship and Immigration Service through its regulation of illegal immigrants. Formerly, these duties were handled by the Immigration and Naturalization Service (INS) under the purview of the Department of Justice, but on March 1, 2003, pursuant to the Homeland Security Act, the INS was dismantled and separated into three component agencies under the Department of Homeland Security. These agencies are the Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), which handle immigration enforcement and border security, and the U.S. Citizenship and Immigration Service (USCIS), which handles the administration of benefit applications. These agencies are important to keep in mind when hiring employees because hospitality managers are required to secure identification documents from all those they hire. This is mandated so that jobs will be given only to those legally able to secure them. The precise method of verifying employment eligibility will be discussed in Chapter 7, "Legally Selecting Employees." Penalties for noncompliance in this area can be severe, so it is a good idea to stay well versed in the applicable regulations.

As you have already noticed, in response to the unfortunate incidents occurring on September 11, 2001, the federal government made sweeping changes to many agencies, combining a number of them under the Department of Homeland Security umbrella. This agency is discussed more thoroughly in Chapter 13, "Legal Responsibilities in Travel and Tourism."

2.2 STATE REGULATORY AND ADMINISTRATIVE AGENCIES

Just as the federal government plays a regulatory role in the hospitality industry, so too do the various state agencies. It is important to understand that the states serve both complementary and distinct regulatory roles. The roles are complementary in that they support and amplify efforts undertaken at the federal level, but they are distinct in that they regulate some areas in which they have sole responsibility. Let's take a brief look at some of the state entities that play a significant regulatory role in the hospitality industry. The administrative structure or specific entity name may vary by state, but the regulatory process will be similar.

It is important to note that state and/or local regulations may affect the actions of hospitality managers more often than federal regulations. Codes and ordinances established at the state or local level can often be very strict, and may require investment in equipment or to pay extra diligence in the operation of a facility. The penalties for violating these laws can be just as severe as those at the federal level.

Employment Security Agency

Each state regulates employment and employee/employer relationships within its borders. Generally, items such as worker-related unemployment benefits, worker safety issues, and injury compensation will fall to the state entity charged with regulating the workplace. In addition, in most states, this entity will also be responsible for areas such as providing employment assistance to both employees and employers.

Consider the case of Virgil Bollinger. The hotel where Virgil works is purchased by a new owner, who states that Virgil's sales manager position is no longer needed. In Virgil's state, an employer's account is not charged for *unemployment benefits* if an employee is let go as a result of staff reductions. However, Virgil believes that his employment has been terminated for other reasons, none of which relate to his work performance. It would be the role of the Employment Security Agency to determine to which, if any, unemployment compensation benefits Virgil is entitled.

Workers' compensation is an area of great concern to most hospitality managers. Worker injuries are expensive, in terms of both money and disruption to the workplace. As a hospitality manager, it is important for you to know and follow the state regulations related to workplace safety, and the method for properly documenting and reporting any work-related injury. In each state, worker safety will usually be monitored by a workers' compensation agency, commission, or subdivision of the employment security agency.

LEGALESE

Unemployment benefits:

A benefit paid to an employee who involuntarily loses his or her employment without just cause.

LEGALESE

Workers' compensation:

A benefit paid to an employee who suffers a work-related injury or illness.

Alcoholic Beverage Commission (ABC)

Although the sale of alcohol is not a requirement for a foodservice or lodging operation, many facilities do offer them for their guests' enjoyment. The nature of alcohol and its consumption, however, subjects the hospitality manager to intense regulation. Generally, this regulation takes place at both the state and local levels. A state's alcoholic beverage commission (ABC) will be responsible for the following areas of control:

- License issuing
- Permitted hours of sales
- Advertising and promotion policies
- Methods of operation
- Reporting of sales for tax purposes
- Revocation of licenses

As a hospitality manager, failure to abide by the regulations required to sell alcoholic beverages lawfully may subject you to criminal prosecution, as well as a civil proceeding (an administrative hearing) before the regulatory body of your state's ABC. In addition, the enactment of *dram shop act* legislation could make a hospitality manager, or the business itself, liable to guests or third parties and their families should significant violations of the alcohol service regulations result in injury to an intoxicated guest, or to persons harmed by an individual who was illegally served. Simply put, providers of alcoholic beverages can be held responsible for the acts of their intoxicated patrons if those patrons were illegally served. Specific techniques related to the proper selling of alcoholic beverages will be fully discussed in Chapter 12, "Your Responsibilities When Serving Food and Beverages."

States are very careful when granting licenses to sell liquor, and they are generally very aggressive in revoking the licenses of operations that fail to adhere to the state's required procedures for selling alcohol. In most states, license revocation can be the result of any of the following:

- Frequent incidents of fighting, disorderly conduct, or generally creating a public nuisance
- Allowing prostitution or solicitation on the premises

LEGALESE

Dram shop acts: Legislation, passed in a variety of forms and in many states, that imposes liability for the acts of others on those who serve alcohol negligently, recklessly, or illegally.

- Drug and narcotic sales or use
- Illegal adult entertainment, such as outlawed forms of nude dancing
- Failure to maintain required records
- Sale of alcohol to minors

Hospitality operators are also responsible for reporting all sales of alcohol to their state's alcoholic beverage commission (ABC). The ABC will perform random audits to determine the accuracy of the information received. Other enforcement tools used by the ABC are to conduct unannounced inspections of the premises where alcohol is sold and/or to intentionally send minors into an establishment to test whether the operator will serve them.

» ANALYZE THE SITUATION 2.2

TRIXIE MITCHELL MANAGED THE Dusty Cellar, a bar near a college campus. She was active in her business community and served on the college's Presidential Advisory Board for Responsible Drinking. All servers and bartenders in her facility were required to undergo a mandatory four-hour alcohol service training program before they began their employment and to take a required refresher course each year. Each server was certified in responsible alcohol service by the national office of Ms. Mitchell's hospitality trade association.

On a busy Friday night during the fall football season, one of Ms. Mitchell's servers approached a table with four female patrons. Since all appeared to be near 21 years old, but well under the 35-year-old limit Ms. Mitchell had established for a mandatory identification (ID) check, the server asked to see a picture ID from each guest.

The server checked each guest's ID—verifying the age, hair color, general likeness, and absence of alterations to the ID card—and then requested—in a practice unique to Dusty's—the mandatory recitation by each patron of the birthday and address printed on the ID. Since all four guests passed their ID checks, the server served the patrons. Each guest had three glasses of wine over a period of 90 minutes.

The next day, Ms. Mitchell was contacted by the state ABC and an attorney for the parents of a teenager whose car was involved in an accident with one of the four patrons served the prior night. It had been established that one of the patrons, whose ID had been professionally altered, was 20 years old, not 21. This patron was involved in the auto accident after she left the bar and drove back to her dorm room. The ABC began an investigation into the sale of alcohol to minors, while the attorney scheduled an appointment with Ms. Mitchell's attorney to discuss a settlement based on the potential liability arising from the dram shop act legislation enacted in Ms. Mitchell's state.

1. Did Ms. Mitchell break the law by serving alcohol to an underage student?
2. Are Ms. Mitchell and her business liable for the acts of the underage drinking if her state has enacted dram shop legislation?

Treasury Department/Controller

A state's treasury department is responsible for the collection of taxes levied by that state. For those in the hospitality industry, this can include liquor taxes, sales taxes, occupancy taxes, as well as a wide array of use taxes.

An excellent example of the diversity displayed by the various states in regard to taxation is the document in Figure 2.7, published in 1997 by the Iowa State University purchasing department for its employees. It demonstrates the importance of a thorough understanding of the laws regarding taxation in the state where you will manage a hospitality facility.

A relatively recent development in the United States has caused an expansion of duties for many state treasury departments. In addition to the collection of taxes, these departments or agencies are often responsible for the regulation of their state's lottery and gaming operations. As this segment of the hospitality industry expands, so too will the regulatory efforts of the various state treasury departments. Typical areas of gaming and lottery regulation by treasury departments include licensing, lottery ticket sales, winnings disbursement, and casino operations. Figure 2.8 is an excellent example of the procedures that treasury regulators can mandate in the operation of gaming facilities. In this document, the Michigan Treasury Department identifies some of the written procedures for money handling that must be filed with the department prior to the granting of a casino license.

Attorney General

The state's attorney general is the chief legal officer of the state. In Chapter 3, "Hospitality Operating Structures," you will learn that one responsibility of the attorney general's office is to specify the franchise information required for disclosure in

IOWA STATE UNIVERSITY

Iowa State University (ISU), as a state educational institution, is exempt from paying state sales tax or local option sales tax on goods or services purchased in the state of Iowa. We are required to pay hotel/motel taxes. The states listed below also grant tax-exempt status to Iowa State University for goods or services purchased while in their state . . . (however) a form or copy of a letter is usually required.

Iowa State University is tax-exempt in the following states:*

Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Mississippi, Missouri, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Texas, Wisconsin.

Goods or services purchased by Iowa State University while in the following states are subject to that state's sales tax. Iowa State University is not tax-exempt in the following states:

Alabama, Nebraska, Arizona, Nevada, Arkansas, New Jersey, California, North Carolina, Connecticut, Oklahoma, District of Columbia, South Carolina, Florida, Tennessee, Georgia, Utah, Louisiana, Vermont, Maine, Virginia, Maryland, Washington, Massachusetts, West Virginia, Minnesota, Wyoming.

The following states do not have a general sales tax:

Alaska, Hawaii, Montana, New Hampshire, New Mexico, Oregon.

Last Updated: Friday, March 6, 1998.

*Delaware did not respond with information regarding tax-exempt status.

Figure 2.7 Tax-exempt notice.

that state. If, for example, an entrepreneur were interested in purchasing a franchise, the attorney general's office would regulate the franchisor and franchisee relationship.

Public Health Department

The public health department is generally responsible for the inspection and licensing of facilities that serve food. This department may be self-standing, but it is often associated with or housed in a state department of agriculture.

DEPARTMENT OF TREASURY, MICHIGAN: GAMING CONTROL BOARD

CASINO GAMING: (By authority conferred on the Michigan Gaming Control Board by section 4 of Initiated Law of 1996, as amended, being § 432.204 of the Michigan Compiled Laws)

PART 9. INTERNAL CONTROL PROCEDURES R 432.1901 Rule 902.

The procedures of the internal control system are designed to ensure all of the following: (a) That assets of the casino licensee are safeguarded.

- (b) That the financial records of the casino licensee are accurate and reliable.
- (c) That the transactions of the casino licensee are performed only in accordance with the specific or general authorization of this part.
- (d) That the transactions are recorded adequately to permit the proper recording of the adjusted gross receipts, fees, and all applicable taxes.
- (e) That accountability for assets is maintained in accordance with generally accepted accounting principles.
- (f) That only authorized personnel have access to assets.
- (g) That recorded accountability for assets is compared with actual assets at reasonable intervals and appropriate action is taken with respect to any discrepancies.
- (h) That the functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel and that no employee of the casino licensee is in a position to perpetuate and conceal errors or irregularities in the normal course of the employee's duties.
- (i) That gaming is conducted with integrity and in accordance with the act and these rules.

History: 1998 MR 6, Eff. June 26, 1998.R 432.1903 Board approval of internal control system. Rule 903.

(1) A licensee shall describe, in a manner that the board may approve or require, its administrative and accounting procedures in detail in a written system of internal control. A written system of internal controls shall include a detailed narrative description of the administrative and accounting procedures designed to satisfy the requirements of these rules. Additionally, the description shall include separate section for all of the following:

- (a) An organizational chart depicting appropriate segregation of functions and responsibilities.
- (b) A description of the duties and responsibilities of each position shown on the organizational chart.
- (c) A detailed, narrative description of the administrative and accounting procedures designed to satisfy the requirements of these rules. Additionally, the description shall include a separate section for all of the following:
 - (i) Physical characteristics of the drop box and tip box.
 - (ii) Transportation of drop and tip boxes to and from gaming tables.
 - (iii) Procedures for table inventories.
 - (iv) Procedures for opening and closing gaming tables.

Figure 2.8 Lottery control.

- (v) Procedures for fills and credits.
 - (vi) Procedures for accepting and reporting tips and gratuities.
 - (vii) Procedures for transporting chips and tokens to and from gaming tables.
 - (viii) Procedures for shift changes at gaming tables.
 - (ix) Drop bucket characteristics.
 - (x) Transportation of drop buckets to and from electronic gaming devices.
 - (xi) Procedures for chip and token purchases.
 - (xii) Procedures for hopper fills.
 - (xiii) Procedures for the transportation of electronic gaming devices.
 - (xiv) Procedures for hand-paid jackpots.
 - (xv) Layout and physical characteristics of the cashier's cage.
 - (xvi) Procedures for accounting controls.
 - (xvii) Procedures for the exchange of checks submitted by gaming patrons.
 - (xviii) Procedures for credit card and debit card transactions.
 - (xix) Procedures for the acceptance, accounting for, and redemption of patron's cash deposits.
 - (xx) Procedures for the control of coupon redemption and other complimentary distribution programs.
 - (xxi) Procedures for Federal cash transactions reporting.
 - (xxii) Procedures for computer backups and assuring the retention of financial and gambling operation.
- (d) Other items as the board may require.

(2) Not less than 90 days before the gambling operation commences, unless otherwise directed by the board, a licensee shall submit, to the board, a written description of its internal control system that is designed to satisfy the requirements of subrule (1) of this rule.

(3) If the written system is the initial submission to the board, then a letter shall be submitted from an independent certified public accountant selected by the board stating that the licensee's written system has been reviewed by the accountant and is in compliance with the requirements of . . . this rule.

(4) The board shall review each submission required by subrule (2) of this rule and shall determine whether it conforms to the requirements of subrule (1) of this rule and whether the system submitted provides adequate and effective controls for the operations of the licensee.

If the board finds any insufficiencies, then the board shall specify the insufficiencies, in writing, and submit the written insufficiencies to the licensee. The licensee shall make appropriate alterations. A licensee shall not commence gambling operations until a system of internal controls is approved.

Figure 2.8 *(Continued)*

Hospitality operators must comply with a variety of health codes and regulations that govern many aspects of their business. The most common areas of state health regulation include the following:

- Standards for the cleanliness of food, and proper procedures for storing, handling, preparing, and serving food
- Standards for the storage and handling of food supplies
- Mandated health procedures for employees working with food
- Standards for the proper care and washing of food equipment, utensils, and glasses
- Standards for the proper care and washing of hotel bedding and towels, and specified quantities to be furnished to guests
- Standards for the supply and use of water for guest use (faucets, showers, swimming pools) as well as for cleaning and dishwashing
- Standards for water and sewage discharge
- Display of procedures for helping choking victims
- Regulations for smoking in public places

Penalties for violating state health ordinances vary widely. Sometimes it is a fine, but in other cases, an operation could be shut down entirely. In minor cases, if an operator can correct the violation within a specified time frame, no penalty will be imposed. And, at the end of that time period, the inspector will come back to verify that the appropriate corrections have been made.

Some state or local health departments occasionally furnish a list of health violators to local newspapers or television stations, which could result in unwanted negative publicity for a hospitality operator. This is an added incentive for managers to make sure they are always in compliance with state and local health ordinances.

Department of Transportation

The states' departments of transportation are responsible for a variety of areas that directly impact hospitality managers. Too often, regulators are viewed only as inspectors, rather than allies. This should not be the case. Consider the situation of a restaurant owner who operates a facility on a busy street in a midsized town. The street itself is maintained by the state highway department. During lunchtime, the restaurant's guests have a hard time turning into the restaurant parking lot from the opposite side of the street, because traffic is so heavy that there are few breaks in the traffic stream. The speed limit on the street is relatively high, so the crossing can be dangerous. This manager should approach the state department of transportation with the problem, in an effort to fashion a solution. It may well be that traffic patterns are so heavy that a reduced speed limit or even a turn lane could be justified. Typically, departments of transportation are also responsible for regulating driveways, exits and approaches, and traffic signage, including billboards on highways.

2.3 LOCAL REGULATORY AND ADMINISTRATIVE AGENCIES

Much of the regulatory process you will face as a hospitality manager will take place at the local level. This is a positive situation because it allows local inspectors to personally get to know both you and your facility.

Health and Sanitation

Often, the health and sanitation department is responsible for the local inspection and licensing of facilities that serve food and beverages. Local inspectors may check for compliance with state health and sanitation codes, as well as municipal ordinances. Additional duties may include the mandatory certification of foodservice workers and managers, issuing and revoking licenses, establishing standards for restroom facilities, and certifying a safe water supply.

Building and Zoning

Building and zoning departments issue building permits, and inspect the building prior to, during, and after any construction. They regulate both new building construction and additions or renovations. Standards for lighting, ventilation, restrooms, elevators, and public corridors and entryways may be established by state or local agencies. (In addition, your insurance company may have its own requirements for lighting levels and ventilation systems.) Local zoning ordinances may also regulate outside land use, such as parking spaces and permits for sidewalk or

patio dining. Local inspectors will make sure that facilities are in compliance with all state and local building codes.

In addition, these departments often regulate the type of businesses that can be located in specified areas. This regulation is called zoning, and though this process can be contentious, it is generally accepted as necessary for the greater good of communities. Most hospitality professionals would agree, for example, that a bar or nightclub should not be operated in a building adjacent to a school or church.

Zoning officials regulate land use in ways that can benefit hospitality managers, for example, by prohibiting negative businesses from locating next to land reserved for restaurants, hotels, and other commercial use. Imagine your concern, for example, if you were to learn that a private landfill operator had just purchased the vacant lot next to your four-star restaurant and was to begin accepting deposits in 30 days!

In addition to their role in regulating the placement and construction of businesses, local building and zoning officials are typically responsible for the construction and placement of signs outside a business. The regulations controlling the size of, number of, and construction materials required for signs can be quite extensive. Figure 2.9 is an example of a local sign ordinance that you might encounter as a hospitality manager. Note, in particular, the specificity of information required by the business prior to the granting of a sign permit.

Sign Permits, Delta Township

The provisions of this chapter shall be administered by the township building official who shall have the authority to issue sign permits, without which it shall be unlawful to erect or replace any sign, whether free-standing, or mounted on, applied to or painted on a building or other structure.

Sign permits required. No person shall erect, place, structurally alter, or add to any sign without first obtaining a permit to do so in the manner hereinafter provided.

Application procedure. Application for a permit to erect, place, structurally alter or add to a sign shall be made to the township building official, by submission of the required forms, fees, exhibits and information by the owner of the property on which the sign is to be located, or by his agent or lessee. The application shall contain the following information:

1. The property owner's name and address.
2. The applicant's name and address
3. Address and permanent parcel number of the property on which the sign is or will be located
4. Identification of the type of sign (ground, pole, wall, etc.)
5. Name of business or name of premises to which the sign belongs or relates
6. Plans drawn to an accurate, common scale, depicting the following:
7. Dimensions and display area of the proposed sign, based on the definition of display area contained in this chapter
8. For ground signs and pole signs, the setback of the sign from the nearest public or private road right-of-way
9. For ground signs and pole signs, the height of the sign
10. For wall signs, the height and width of the building wall or tenant-controlled portion of building wall to which the sign will be attached.
11. The proposed graphic images and text to be displayed on the sign.

Scope. Sign permits issued on the basis of plans and other information submitted as part of the permit application authorize only the design and construction set forth and described in the permit application, and no other design or construction.

Figure 2.9 Sign permit ordinance.

Inspectors randomly visit businesses to ensure compliance with building and safety codes. Violators can be fined, and if guests or employees injure themselves as a result of a violation, it may result in a lawsuit.

Courts and Garnishment

In most communities, some agency of the court, sometimes called a “friend” of the court, will have the responsibility of assisting creditors in securing payment for legally owed debts. These debts can include a variety of court-ordered payments, such as child-support payments. In cases like these, a hospitality manager may be ordered by the court to *garnish* an employee’s wages.

LEGALESE

Garnish: A court-ordered method of debt collection in which a portion of a person’s salary is paid to a creditor.

Historical Preservation

In some communities, historical buildings, their use, and renovation may be regulated by an agency charged with historical preservation. If you manage a hospitality facility in a historic building, city zone, or community, you might face regulation from the governmental entity charged with preserving the historical integrity of your facility. This might limit the types of alterations or improvements you may make to your facility, or require you to maintain your property in a manner that is consistent with the historical nature of the area.

Fire Department

The local fire department is a critical part of the safety net that hospitality managers offer their guests. Whether it is for a hotel or restaurant, dependable fire safety departments can assist a manager in limiting potential liability through careful adherence to all local fire codes and procedures. Fire departments will normally conduct routine facility inspections, assist local building departments in reviewing plans for new or renovated buildings, ensure that emergency lighting and sprinklers are installed and maintained properly, and offer fire safety training for managers and employees. As a hospitality manager, it is important to know your local fire codes and to make sure that your operation always includes the required number of fire extinguishers, smoke detectors, sprinklers, fans and ventilation ducts, emergency lights, and emergency exit signs. This equipment should be tested periodically to make sure that it is in good working order. The National Fire Protection Association has established national standards for ventilation systems and automatic fire protection systems in commercial kitchens. Insurance companies also have regulations that will determine the type and amount of fire protection equipment you will need for your operation.

Another important role of the fire department is to regulate the number of individuals who are allowed in a particular space at a given time. For example, it would be the fire department that would determine the maximum number of patrons who could be in a hotel ballroom at one time. The capacity of bars, nightclubs, dining rooms, and sleeping rooms are all examples of areas regulated by the local fire department. You have probably noticed signs that indicate the maximum number of people who can safely be in a public space. Often, local laws require these signs to be prominently displayed.

Law Enforcement

Although local police do not generally serve a regulatory role for business, some communities do have local laws or codes that are enforced by the police department, in a city, or by the sheriff’s department in a more rural community. As we have seen,

liquor laws, for example, are sometimes enforced by the local police. Other areas of interaction may be parking enforcement and the removal of disorderly guests.

Tax Assessor/Collector

Local municipalities obtain a significant portion of their tax revenues from businesses. These taxes may be levied on the basis of property value, sales revenue, or a combination of both. The tax assessor or collector is responsible for the prompt collection and recording of these taxes.

Increasingly, communities are looking to the hospitality industry as a vehicle for raising tax revenue. One such source of tax revenue is the local occupancy, or bed, tax. Essentially, the occupancy tax is a tax on the sale of hotel rooms. It typically will range from 1 to 15 percent of gross room revenue. This tax may be assessed at the state level, local level, or both. In any case, there are typically few waivers for the tax, and its collection is aggressively enforced by the taxing entity.

2.4 REGULATORY INTERACTION AND OVERSIGHT IMPACTING TRAVEL AND TOURISM

The travel industry is heavily regulated, and because it is so large and diverse, the number of groups and organizations responsible for the legal oversight of travel activities is considerable. From the perspective of the hospitality manager, some of the most significant of these include governmental agencies, both at the federal and state levels, and nongovernmental groups that operate internationally to coordinate travel policies, which are discussed later in this section.

U.S. Government Agencies

You have been introduced to federal agencies that have responsibility for regulation and oversight in the hospitality industry. In the following subsections, you will learn about other federal agencies involved in regulation and policy development for the travel industry. The list is long and represents the most significant of the federal groups responsible for monitoring travel activities, but it is not exhaustive. In fact, travel-related activities impact nearly every federal agency. The agencies and departments identified here will, however, give some indication of the many ways in which travel professionals interact with the federal government in the course of their managerial duties. In addition to federal monitoring and control, states, counties, and local governments may all have agencies, departments, and code enforcement professionals that combine to provide additional regulatory oversight.

Federal Trade Commission (FTC)

The Federal Trade Commission is charged with ensuring that the nation's markets are free of restrictions that could potentially harm consumers. In addition, it works to ensure that competition among firms is fair and results in the availability of lower prices and better goods and services. A further role of the FTC is the dissemination of information that consumers can use to make better purchase decisions. To ensure the smooth operation of the free market system, the FTC enforces federal consumer protection laws that prevent fraud, deception, and unfair business practices. The commission also enforces federal antitrust laws that prohibit anticompetitive mergers and other business practices that restrict competition and could harm consumers.

With regard to the travel industry, the FTC has increasingly devoted its attention to protecting consumers by investigating false, misleading, or deceptive advertising,

telemarketing fraud, and Internet scams. Although the FTC does not seek to resolve individual consumer problems, it does use information from individual complaints to investigate fraud and initiate law enforcement actions. The FTC also enters Internet, telemarketing, identity theft, and other fraud-related complaints into the Consumer Sentinel, an online database available for use by civil and criminal law enforcement agencies worldwide.

Centers for Disease Control and Prevention (CDC)

The Centers for Disease Control and Prevention (CDC) is the major federal agency operating to protect the health and safety of individuals at home and abroad, as well as to provide information to enhance health decisions. The CDC, located in Atlanta, Georgia, is an agency of the Federal Department of Health and Human Services. Its official mission is to promote health and quality of life by preventing and controlling disease, injury, and disability.

Becoming seriously ill or having a major accident while traveling, especially in a country where the traveler does not speak the local language, is one of many tourists' greatest fears. Travelers may also face health risks of which they are unaware because they simply do not know about travel-related threats to their health and safety in places they have not previously visited. In many cases, some of these threats could be avoided or minimized if the traveler were aware of them. The CDC makes available, on a region-by-region basis, information about health and safety risks for travelers worldwide. In addition, this information includes recommendations for addressing or minimizing these travel-related threats to health and safety.

Search the Web 2.2

One of the most popular services offered by the CDC is its "Travelers' Health" information. It is available online and seeks to inform travelers about the health risks they may encounter when traveling in various parts of the world. To view a sample of the information provided, go to wwwnc.cdc.gov/travel. Under the "Destinations" tab, select a region to find out about the health risks you might encounter in an area of the world you would someday like to visit.

Department of Commerce

The U.S. Department of Commerce is dedicated to the improvement of business, including tourism. It houses the Census Bureau (www.census.gov), which collects economic data on the hotel and restaurant industries, as well as other service businesses. It also houses the United States Travel and Tourism Administration (www.tinet.ita.doc.gov), which was established by the National Tourism Policy Act of 1981. This agency gathers statistics on travel activity and promotes tourism. On February 20, 2003, the Omnibus Appropriation Act for FY 2003 became law. Included in this appropriation was Section 210, which authorized the U.S. Department of Commerce to award grants and make lump-sum payments in support of an international advertising and promotional campaign to encourage individuals to travel to the United States. The Omnibus Appropriation Act both authorized and appropriated \$50 million for this campaign, which is, of course, widely supported by those in the travel industry. The Department of Commerce is advised by its Travel and Tourism Promotion Advisory Board (see Figure 2.10), which includes some of the travel industry's most notable businesspeople.

Rossi Ralenkotter
President & CEO
Las Vegas Convention and Visitors Authority

Dawn Drew
Founder & CEO
The M.O.S.T.E., Inc.

Holly Agra
President
Chicago's First Lady Cruises

Richard Anderson
CEO
Delta Air Lines, Inc.

José Andrés
President & Co-Founder
ThinkFoodGroup

Sheila Armstrong
Executive Director
U.S. Cultural and Heritage Tourism Marketing Council

Helane Becker
Senior Vice President
Dahlman Rose & Company

Nich Calderazzo
Vice President Sales and Marketing
RMP Travel

Todd Davidson
CEO
Oregon Tourism Commission

Maryann Ferenc
Founder, President & CEO
Mise en Place, Inc.

Chuck Floyd
COO—North America
Hyatt Hotels Corporation

Sam Gilliland
Chairman & CEO
Sabre Holdings

Figure 2.10 Department of Commerce Travel & Tourism Advisory Board.

Adam Goldstein
President & CEO
Royal Caribbean International

Dr. David Hayes
Director—International Office
Mayo Clinic

Jeremy Jacobs, Sr.
Chairman & CEO
Delaware North Companies, Inc.

Hubert Joly
President & CEO
Carlson Companies

John Klein
CEO
Premium Outlets, a Division of Simon Property Group

David Kong
President & CEO
Best-Western International

Philip Levine
President & CEO
Baron Corporation

Gina Marie Lindsey
Executive Director
Los Angeles World Airports

Chandrakant "C.K." Patel
President
BVM Holdings, Inc.

J. Stephen Perry
President & CEO
New Orleans Convention and Visitors Bureau

Adam Sacks
Managing Director
Tourism Economics

Joseph W. Saunders
Chairman & CEO
Visa, Inc.

Figure 2.10 *(Continued)*

Douglas Shifflet
Chairman & CEO
D.K. Shifflet & Associates

Ronald Solimon
President & CEO
Indian Pueblo Cultural Center, Inc. and Indian Pueblos Marketing, Inc.

John Sprouls
CEO
Universal Orlando Resort
Executive Vice President
Universal Parks and Resorts

Greg Stubblefield
Executive Vice President & CSO
Enterprise Holdings

Perry John P. Tenorio
Managing Director
Marianas Visitors Authority

George Zimmermann
Vice President
Travel Michigan at the Michigan Economic Development Corporation

Figure 2.10 (Continued)

» ANALYZE THE SITUATION 2.3

AN ELDERLY COUPLE FROM Canada, traveling in Central/South America, goes on a shopping trip to a local produce market, where the couple buys and consumes some locally grown fruit. Upon returning that evening to the international hotel in the area, which you manage, the husband falls ill and his wife calls your front desk seeking assistance.

1. What is the likely cause of the man's illness?
2. Based on what you know about reasonable care for guests, what action would you expect your management team to take relative to the man's illness?
3. What would your position be if your hotel was later sued by the couple, claiming you had failed to warn them of local health risks?

Department of the Interior (DOI)

In 1849, Congress passed a bill to create the Department of the Interior. Over the course of its history, the DOI has played a changing role in its mission of managing the country's internal affairs. As a result, it has had, at various times, responsibility for the construction of the national capital's water system, the colonization of freed slaves in Haiti, exploration of the western wilderness, oversight of the District of Columbia jail, regulation of territorial governments, management of hospitals and universities, management of public parks, and the basic responsibilities for Native Americans, public lands, patents, and pensions. In one way or another, all of these roles had to do with the internal development of the nation or the welfare of Americans.

In 1916, President Woodrow Wilson signed legislation creating the National Park Service. The act assigned to the new bureau the 14 national parks and 21 national monuments then under the DOI and directed it "to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."⁴ The national monuments, generally smaller than the parks, included prehistoric Native American ruins, geologic features, and other sites of natural and cultural significance reserved by presidential proclamations under the Antiquities Act of 1906. Today, this agency sets policy for the National Park Service, which includes some the country's most significant tourism destinations.

Search the Web 2.3

The National Park Service is in the tourism business. To view its website, where visitors can book tours, go to www.nps.gov/findapark/index.htm.

It is also possible to find information about national parks and nearby communities at www.nationalparkreservations.com.

Department of State

The executive branch and Congress have constitutional responsibilities for U.S. foreign policy. Within the executive branch, the Department of State is the lead U.S. foreign affairs agency, and the secretary of state is the president's principal foreign policy adviser. The Department of State advances U.S. objectives and interests in shaping a safer and freer world through its primary role in developing and implementing the president's foreign policy. The State Department also supports the foreign affairs activities of other U.S. government entities, including the Department of Commerce. In addition, it provides a variety of important services to U.S. citizens traveling abroad, including the issuing of passports and providing travel warnings. Figure 2.11 is an example of the type of warning developed by the Department of State and is available to those traveling internationally.

⁴National Park Service, "Organic Act of 1916," www.nps.gov/grba/parkmgmt/organic-act-of-1916.htm. Last updated August 23, 2010. Accessed July 5, 2011.

Travel Warning
U.S. DEPARTMENT OF STATE
Bureau of Consular Affairs
Afghanistan
March 08, 2011

The Department of State warns U.S. citizens against travel to Afghanistan. The security threat to all U.S. citizens in Afghanistan remains critical. This supersedes the Travel Warning for Afghanistan issued August 13, 2010, to remind U.S. citizens of ongoing security risks, including kidnapping and insurgent attacks.

No part of Afghanistan should be considered immune from violence, and the potential exists throughout the country for hostile acts, either targeted or random, against U.S. and other Western nationals at any time. Remnants of the former Taliban regime and the al-Qa'ida terrorist network, as well as other groups hostile to International Security Assistance Force (ISAF) military operations, remain active. There is an ongoing threat to kidnap and assassinate U.S. citizens and Non-Governmental Organization (NGO) workers throughout the country. Afghan authorities have a limited ability to maintain order and ensure the security of Afghan citizens and foreign visitors. Travel in all areas of Afghanistan is unsafe due to military combat operations, landmines, banditry, armed rivalry between political and tribal groups, and the possibility of terrorist attacks, including attacks using vehicular or other improvised explosive devices (IEDs). The security environment remains volatile and unpredictable.

In August 2010 a group of doctors, nurses, and medical practitioners, including six U.S. citizens, was shot and killed near their vehicles in Badakhshan province as they completed a medical aid visit to remote areas in nearby Nuristan province. Also in Badakhshan province in spring 2010, a group of U.S. citizen missionaries who were alleged to be proselytizing in the area encountered hostility and required evacuation from the area by the Ministry of Interior and the U.S. Embassy.

In Kandahar, the assassination campaign against government officials, their associates, or anyone notably linked to the government, continues. The number of attacks throughout the south and southeastern areas of the country is growing as a result of insurgent and drug-related activity, and no part of Afghanistan is immune from violence.

Kabul is also considered at high risk for militant attacks, including rocket attacks, vehicle borne IEDs, and suicide bombings. Five United Nations (UN) workers were killed during an attack on a UN guesthouse in Kabul in October 2009. More than 20 attacks were reported in Kabul over the past year, although many additional attacks were thwarted by Afghan and coalition forces. Recent incidents include the bombing of a Kabul supermarket popular with Westerners and an attack on the Kabul City Center complex, which includes a hotel frequented by foreign visitors. Insurgents have also targeted the offices, convoys, and individual implementing partners of the U.S. Agency for International Development.

The attack against a Kandahar guesthouse on April 15, 2010, along with the UN attack mentioned above, highlights the growing threat against guesthouses. Buildings or compounds that lack robust security measures in comparison to neighboring facilities may be viewed as targets of opportunity by insurgents.

The Kabul-Jalalabad Road (commonly called Jalalabad Road) and the Kabul to Bagram Road are highly restricted for Embassy employees and, if the security situation warrants, sometimes prohibited completely.

Riots and incidents of civil disturbance can and do occur, often without warning. U.S. citizens should avoid rallies and demonstrations; even demonstrations intended to be peaceful can turn confrontational and escalate into violence.

Figure 2.11 U.S. State Department travel warning for Afghanistan.

Ambushes, robberies, and violent crime remain a problem. U.S. citizens involved in property or business disputes — a common legal problem in Afghanistan — have reported that their adversaries in the disputes have threatened their lives. U.S. citizens who find themselves in such situations should not assume that either local law enforcement or the U.S. Embassy will be able to assist them. From time to time, depending on current security conditions, the U.S. Embassy places areas frequented by foreigners off limits to its personnel. Potential target areas include key national or international government establishments, international organizations and other locations with expatriate personnel, and public areas popular with the expatriate community. Private U.S. citizens are strongly urged to heed these restrictions as well and may obtain the latest information by consulting the embassy website below.

From time to time, depending on current security conditions, the U.S. Embassy places areas frequented by foreigners off limits to its personnel. Potential target areas include key national or international government establishments, international organizations and other locations with expatriate personnel, and public areas popular with the expatriate community such as restaurants. Private U.S. citizens are strongly urged to heed these restrictions as well and may obtain the latest information by consulting the Embassy's security announcements website.

The U.S. Embassy's ability to provide emergency consular services to U.S. citizens in Afghanistan is limited, particularly for those persons outside the capital. U.S. citizens who choose to visit or remain in Afghanistan despite this Travel Warning are encouraged to enroll with the U.S. Embassy in Kabul through the State Department's Smart Traveler Enrollment Program (STEP) to obtain updated information on travel and security within Afghanistan. U.S. citizens without Internet access may enroll directly with the U.S. Embassy. Enrolling makes it easier for the Embassy to contact U.S. citizens in case of an emergency. The U.S. Embassy is located at Great Masood Road between Radio Afghanistan and the Ministry of Public Health (the road is also known as Bebe Mahro or Airport Road) in Kabul. The Embassy phone numbers are 93-(0)700-108-001 and 93-(0)700-108-002. For after-hours, life-or-limb emergencies involving U.S. citizens, the Consular Section can be reached at 93-(0)700-201-908; please direct routine consular correspondence to USConsulKabul@state.gov.

Current information on travel and security in Afghanistan may be obtained from the Department of State by calling 1-888-407-4747 toll free in the United States and Canada or, for callers outside the United States and Canada, a regular toll line at 1-202-501-4444. For further information, please consult the Country Specific Information for Afghanistan and the current Worldwide Caution, which are available on the Bureau of Consular Affairs Internet website.

Figure 2.11 *(Continued)*

Search the Web 2.4

An important service provided by the Department of State is that of issuing travel advisories and warnings to Americans planning to travel outside the United States. Travelers can access these warnings at travel.state.gov/travel/cis_pa_tw/tw/tw_1764.html.

Department of Homeland Security (DHS)

In the months following the terrorist attacks against America on September 11, 2001, 22 previously separate domestic agencies were merged into one department to protect the nation against terrorist threats. This merger created the Department of Homeland Security (DHS). It has a sixfold agenda:⁵

1. Increase overall preparedness, particularly for catastrophic events.
2. Create better transportation security systems to move people and cargo more securely and efficiently.
3. Strengthen border security and interior enforcement and reform immigration processes.
4. Enhance information sharing with our partners.
5. Improve DHS financial management, human resource development, procurement, and information technology.
6. Realign the DHS organization to maximize mission performance.

More specifically, the department is composed of these divisions:⁶

The Directorate for National Protection and Programs works to advance the Department's risk-reduction mission. Reducing risk requires an integrated approach that encompasses both physical and virtual threats and their associated human elements.

The Directorate for Science and Technology is the primary research and development arm of DHS. It provides federal, state, and local officials with the technology and capabilities to protect the homeland.

The Directorate for Management is responsible for Department budgets and appropriations, expenditure of funds, accounting and finance, procurement, human resources, information technology systems, facilities and equipment, and the identification and tracking of performance measurements.

The Office of Policy is the primary policy formulation and coordination component for the Department of Homeland Security. It provides a centralized, coordinated focus to the development of Department-wide, long-range planning to protect the United States.

The Office of Health Affairs coordinates all medical activities of the Department of Homeland Security to ensure appropriate preparation for and response to incidents having medical significance.

The Office of Intelligence and Analysis is responsible for using information and intelligence from multiple sources to identify and assess current and future threats to the United States.

The Office of Operations Coordination and Planning is responsible for monitoring the security of the United States on a daily basis and coordinating activities within the Department and with governors, Homeland Security Advisors, law enforcement partners, and critical infrastructure operators in all 50 states and more than 50 major urban areas nationwide.

The Federal Law Enforcement Training Center provides career-long training to law enforcement professionals to help them fulfill their responsibilities safely and proficiently.

⁵Homeland Security, "Department Six-point Agenda," www.dhs.gov/xabout/history/editorial_0646.shtm. Last modified January 26, 2011. Accessed July 5, 2011.

⁶Homeland Security, "Department Subcomponents and Agencies," www.dhs.gov/xabout/structure/. Last modified on May 31, 2011. Accessed July 5, 2011.

The Domestic Nuclear Detection Office works to enhance the nuclear detection efforts of federal, state, territorial, tribal, and local governments, and the private sector and to ensure a coordinated response to such threats.

The Transportation Security Administration (TSA) protects the nation's transportation systems to ensure freedom of movement for people and commerce.

United States Customs and Border Protection (CBP) is one of the Department of Homeland Security's largest and most complex components, with a priority mission of keeping terrorists and their weapons out of the United States. It also has a responsibility for securing and facilitating trade and travel while enforcing hundreds of U.S. regulations, including immigration and drug laws.

United States Citizenship and Immigration Services secures America's promise as a nation of immigrants by providing accurate and useful information to our customers, granting immigration and citizenship benefits, promoting an awareness and understanding of citizenship, and ensuring the integrity of our immigration system.

United States Immigration and Customs Enforcement (ICE) promotes homeland security and public safety through the criminal and civil enforcement of federal laws governing border control, customs, trade, and immigration.

The United States Coast Guard is one of the five armed forces of the United States and the only military organization within the Department of Homeland Security. The Coast Guard protects the maritime economy and the environment, defends our maritime borders, and saves those in peril.

The Federal Emergency Management Agency (FEMA) supports our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards.

The United States Secret Service safeguards the nation's financial infrastructure and payment systems to preserve the integrity of the economy, and protects national leaders, visiting heads of state and government, designated sites, and National Special Security Events.

The policies put in place by the DHS now and in the future will have a significant impact on the way Americans travel, as well as how America receives travelers.

Treasury Department

The U.S. Treasury Department is entrusted with a variety of duties and functions. In addition to collecting taxes and managing currency production and circulation, this department oversees functions in law enforcement, economic policy development, and international treaty negotiation. Travelers are affected by the department's participation in negotiations to reduce barriers to international trade and finance by working through the World Trade Organization (UNWTO), the Organization for Economic Cooperation and Development, and other international trade negotiating teams. In addition, it houses the Office of Foreign Assets Control (OFAC), which administers and enforces economic and trade sanctions, including travel bans, based on U.S. foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction.

Department of Transportation (DOT)

Congress established the Department of Transportation in 1968. Its mission is to develop and coordinate policies that will provide an efficient and economical national transportation system while considering both environmental and national defense needs. The DOT consists of 13 individual operating administrations:

1. Federal Aviation Administration
2. Federal Highway Administration
3. Federal Railroad Administration
4. National Highway Traffic Safety Administration
5. Federal Motor Carrier Safety Administration
6. Federal Transit Administration
7. Maritime Administration
8. Saint Lawrence Seaway Development Corporation
9. Research and Innovative Technology Administration
10. Office of the Secretary of Transportation
11. Office of the Inspector General
12. Pipeline and Hazardous Materials Safety Administration
13. Surface Transportation Board

Although many of the activities of these DOT divisions affect tourism and travelers, the following four are of special note:

1. *Federal Aviation Administration (FAA)*. Early economic regulation of airlines by the federal government concerned mainly the airlines' participation in the airmail system. "The Air Mail Act of 1925 allowed the U.S. government to pay airlines for carrying the mail. The McNary–Watres Act of 1930 let the Post Office Department review the accounting practices of these mail carriers," and, as a result, regulation of the airlines began. The airline companies that did not hold government contracts to carry the mail remained unregulated. Thus, from 1930 to 1938, these unregulated companies grew quickly, and competed for passengers by offering low prices. "In 1935 the Federal Aviation Commission recommended that the entire air transportation industry, not just the airmail carriers, be regulated, much as the Interstate Commerce Commission regulated railroads." As a result, the federal government began regulating airfares and decided how many and which airlines could fly between cities. The Federal Aviation Act of 1958 established the Federal Aviation Agency (now the FAA), which added further safety regulations. Due to pressure by consumer groups, however, Congress passed the Airline Deregulation Act of 1978. This act ended most economic regulation in a series of steps over several years. As a result, airlines could offer new routes and drop routes that lost money.⁷

The federal government also recognized the need to guarantee service to communities where airlines made little or no profit, and where these airlines might want to eliminate service, which would leave travelers in those communities without air transportation. "Under a program called Essential Air Service, airlines were prevented from dropping service to certain communities even though the airlines might not want to keep operating them." In addition, airlines must meet FAA safety standards if they are to be permitted to use airspace. Thus, despite deregulation, the FAA is still heavily involved in air transportation policy. Specifically, the FAA is responsible for the issuance and enforcement of regulations and minimum standards relating to the manufacture, operation, and maintenance of aircraft. In addition, it is responsible for air traffic management, and **thus operates** a network of airport towers, air route traffic control centers, and flight service stations.⁸

⁷Roger Mola, "Economic Regulations of Airlines," U.S. Centennial of Flight Commission, www.centennialofflight.gov/essay/Government_Role/Econ_Reg/POL16.htm. Accessed July 5, 2011.

⁸Ibid.

2. *Federal Highway Administration (FHWA)*. The goal of the Federal Highway Administration is to create the best transportation system in the world for the American people and to enhance the country's economic vitality, quality of life, and the environment. The FHWA is headquartered in Washington, D.C., with field offices across the United States. It performs its tasks through the Federal-Aid Highway program, which provides federal financial assistance to the states to construct and improve the National Highway System, urban and rural roads, and bridges. The program provides funds for general improvements and development of safe highways and roads. It also operates the Federal Lands Highway program, which provides access to and within national forests, national parks, Indian reservations, and other public lands. Both of these programs, and the policies set by their administrators, of course, significantly impact vehicle traffic, travel, and tourism in the United States.

» ANALYZE THE SITUATION 2.4

TED FLOOD HAD A reservation at the Sleep Right hotel for the night of October 15. According to the reservation policy explained to Mr. Flood at the time he reserved the room from Sleep Right's national reservation system, the nonguaranteed reservation was to be held until 4:00 P.M. the afternoon of Mr. Flood's arrival.

Unfortunately, Mr. Flood's flight to the city where the Sleep Right was located was delayed, because Mr. Flood's plane had to spend four hours on the airport runway because of mechanical difficulties. Mr. Flood was unable to contact the hotel and, as a result, his room was released by the hotel at 4:30 P.M. and sold to another guest at 5:00 P.M. Consequently, the hotel had no rooms available when Mr. Flood, tired and frustrated, arrived at the front desk at 8:00 P.M.

1. What could Mr. Flood have done to avoid his difficulty?
2. What responsibility, if any, does the hotel now have to Mr. Flood?
3. What role did the FAA likely play in this situation?

3. *Federal Railroad Administration*. A common misconception is that the federal government owns and operates the country's rail system. It does not. The Federal Railroad Administration does, however, provide some funding, and thus has some decision-making authority related to the country's intercity rail passenger system. It also administers federal grants to Amtrak (officially known as the National Railroad Passenger Corporation), which is the organization that actually operates much of the nation's rail system.
4. *National Highway Traffic Safety Administration (NHTSA)*. The Highway Safety Act of 1970 established the National Highway Traffic Safety Administration to implement traffic safety programs. It is responsible for reducing deaths, injuries, and economic losses resulting from motor vehicle crashes. It does so by setting and enforcing safety performance standards for motor vehicles and motor vehicle equipment. The NHTSA investigates safety defects in motor vehicles; sets and enforces fuel economy standards;

helps states and local communities reduce the threat of drunk drivers; promotes the use of safety belts, child safety seats, and airbags; and provides consumer information on motor vehicle safety topics. Because of the immense popularity of auto travel in the United States, the NHTSA plays a major role in the travel industry.

Tourism Policy Council (TPC)

As is clear by now, there are many federal agencies whose policymaking affects travel in the United States. The Tourism Policy Council (TPC) is an interagency, policy-coordinating committee composed of the leaders of nine federal agencies and the president of the U.S. National Tourism Organization (USNTO). The TPC members work cooperatively to ensure that the national interest in tourism is fully considered in federal decisions that affect tourism development. The TPC also coordinates national policies and programs relating to international travel and tourism, recreation, and national heritage resources that involve federal agencies. The council works with the private sector and state and local governments on issues and problems that require federal involvement.

International Organizations

The United States is not, of course, the only government interested in promoting safe travel for its citizens, for many countries count on tourism for significant financial contributions to their economies; hence, they, too, are concerned with traveler safety. That means there are a large number of international groups and organizations whose goal is to improve and promote the travel industry worldwide. The result is the creation of travel procedures, policies, and agreements. The following three organizations direct or control some of the most important of these international cooperative efforts.

World Tourism Organization (UNWTO)

The World Tourism Organization is the leading international organization in the field of travel and tourism. It serves as a global forum for tourism policy issues and as a practical source of tourism knowhow and statistics. Its membership includes 154 countries, 7 territories, and 400 affiliate members representing regional and local promotion boards, tourism trade associations, educational institutions, and private-sector companies that include airlines, hotel groups, and tour operators.

The UNWTO has been vested by the United Nations with a central role in promoting the development of responsible, sustainable, and universally accessible tourism. Through tourism, the UNWTO aims to stimulate economic growth and job creation, provide incentives for protecting the environment and cultural heritage, and promote peace, prosperity, and respect for human rights. The UNWTO is best known for demonstrating the economic importance of tourism, and providing the world's most comprehensive tourism statistics. By establishing standards for the reporting of tourism-related information, the UNWTO has created a common base of statistics that enables operators of tourist destinations to compare their success and progress with that of their competitors.

International Civil Aviation Organization (ICAO)

The International Civil Aviation Organization is one of the least known but most important of the many international groups that affect travel policy and procedure.

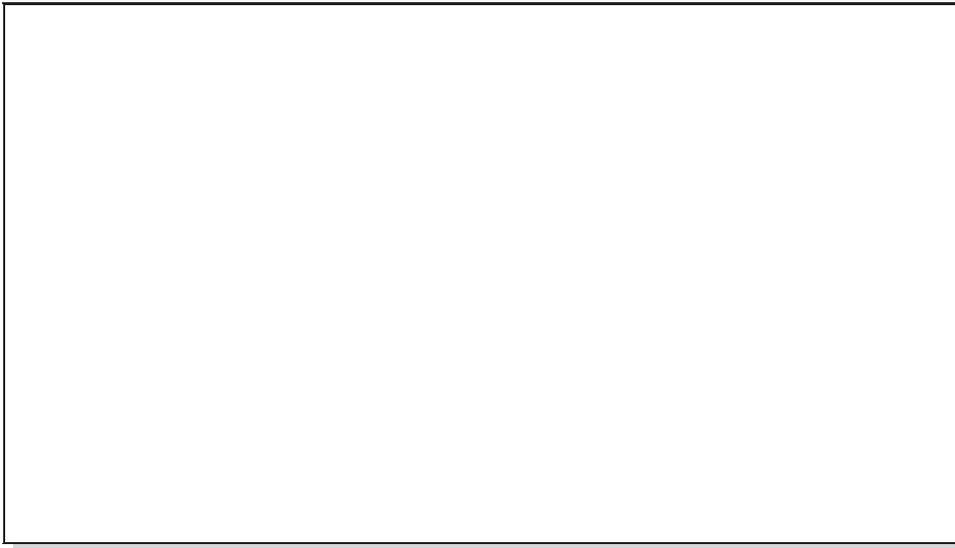


Figure 2.12 Conclusion of the Convention on International Civil Aviation, Chicago.

On December 7, 1944, 52 countries signed the treaty that resulted from the Convention on International Civil Aviation, which was held in Chicago, Illinois. Figure 2.12 contains an excerpt from that document.

Today, the ICAO is a specialized agency of the United Nations. It develops rules and regulations concerning training and licensing of aeronautical personnel, both in the air and on the ground, communication systems and procedures, rules for the air and air traffic control systems and practices, and airworthiness requirements for aircraft engaged in international air travel, as well as their registration and identification, aeronautical meteorology, and maps and charts.

World Health Organization (WHO)

The World Health Organization, the United Nations' specialized agency for health, was established in 1948. The objective of WHO is the attainment by all peoples of the highest possible level of health. "Health" is defined by WHO as a state of complete physical, mental, and social well-being—not merely the absence of disease or infirmity. International travelers are affected by the work of WHO, especially when visiting nations challenged to provide their own citizens, and thus visitors, with the basic components of healthy food and water supplies.

2.5 MANAGING CONFLICTING REGULATIONS

Given the large number of legislative bodies daily creating new policies, there are surprisingly few instances where regulations are in direct conflict. As a rule, local legislators and public officials will review state guidelines prior to implementing new regulations, just as state regulators will review federal guidelines. In fact, where there are agencies at each governmental level, the federal agency may create model regulations that will then be adopted in whole or in part at the state level, just as the state may take the role of creating model regulations for possible use at the local level.

Consider the case of A. J. Patel. Mr. Patel is the regional manager for a hotel company that operates properties that provide a free continental breakfast to all registered guests. His properties operate in three different states. Mr. Patel must be familiar with the public health codes of three different state and local governments, which means that he must stay abreast of the changing health code regulations of all six entities. His task has been made easier, however, because the federal Food and Drug Administration (FDA) created a Model Food Service Sanitation Ordinance, which is followed, with varying degrees of specificity, by many state and local communities. Figure 2.13 is a section of the Preface to the State of Michigan's "Food Service Sanitation" ordinance. Note the relationship that is detailed among the federal, state, and local regulators.

There will be times when the requirements placed on a hospitality manager will be in conflict with one another. For example, a federal requirement may conflict with a local one. Although this can sometimes be frustrating, it is important to know what you, as a manager, should do in such a situation.

A conflict between regulatory restrictions occurs when one entity sets a standard higher or lower than another. If, for example, a local sanitation code requires all shelving in a kitchen to be 12 inches above the floor, yet the state code allows shelving to be within 6 inches of the floor, the more restrictive regulation will prevail. This is true because, in this case, a shelf 12 inches above the floor satisfies both regulatory bodies. The principle to remember is this: When regulatory demands conflict, the "most restrictive" regulation should be followed.

Michigan's state-local coordinated food service sanitation program regulates fixed, mobile, and temporary foodservice establishments as well as vending machines dispensing certain food and beverages. The program was first launched with passage of Act 269, P.A. of 1968, and has, from the beginning, been based in large part on the U.S. Public Health Service (USPHS) Model Recommendations for Food Service Sanitation. These recommendations are updated as technology, experience, and research dictate.

Michigan's current regulations consist of (1) the enabling legislation, Michigan's Public Health Code, Act 368, P.A. of 1978, Part 129, as amended; (2) the United States Public Health Service Model Foodservice Sanitation Ordinance; and (3) Foodservice Sanitation Rules promulgated under the authority of Section 12909 of the Public Code. The Foodservice Sanitation Section, Division of Environmental Health, Bureau of Environmental and Occupational Health, Michigan Department of Public Health is charged with responsibility for overall administration and coordination of the program and has delegated the authority for enforcement of the statute and administrative rules to local health departments.

Figure 2.13 State of Michigan Food Service Sanitation ordinance.

» ANALYZE THE SITUATION 2.5

SHARON ALEXANDER OPERATED THE Texas Saloon, a steakhouse restaurant that also served beer and wine. Sharon's average menu item sold for \$10. Employees were allowed to eat one meal during their shift. For those who voluntarily elected to eat this meal, Sharon would deduct \$0.25 per hour (\$2 per eight-hour shift) from the federal minimum wage rate she paid her entry-level dishwashers, which reflected the reasonable cost of the meal.

Sharon relied on the Fair Labor Standards Act (FLSA) Section 3(m), which states that employers can consider, as wages, “reasonable costs . . . to the employer of furnishing such employees with board, lodging, or other facilities if such boards, lodging, or other facilities are customarily furnished by such employer to his [or her] employees.” Sharon interpreted this regulation to mean that she could pay the entry-level dishwashers a rate that, when added to the \$0.25 per hour meal deduction, equaled the federal minimum wage.

One day, Sharon was contacted by her state department of employment, which charged that she was in violation of the state minimum wage law. The law stated that “total voluntary deductions for meals and uniforms may not decrease an employee’s wages below the federal minimum wage on an hourly basis.” Sharon maintained that because she was in compliance with the federal law, she was allowed to take the meal credit against the wages paid to her entry-level dishwashers.

1. Is Sharon in compliance with the compensation laws of her state?
2. Do federal laws, in this case, take precedent over state law?

In some cases, a regulatory agency will influence a hospitality manager’s operation in an indirect, but intentional, manner. One example is the Hotel and Motel Fire Safety Act of 1990. The federal government enacted this law because it was hesitant to require many older hotels to incur the expense of adding in-room sprinkler systems to their rooms, yet it still wanted to influence the safety of the traveling public.

The Hotel and Motel Fire Safety Act of 1990 aims to increase the level of fire safety in hotels and motels by discouraging federally funded travel to hotels and motels that do not meet certain minimum fire protection standards. These standards require the installation of automatic sprinkler systems in hotels and motels over three stories in height, and the installation of hard-wired (not battery-operated) smoke detectors in every room of each and every hotel and motel.

In general, the act prohibits federal funding of a meeting, conference, convention, or training seminar that is conducted in a place of public accommodation that does not meet the fire safety requirements of the act. Under the act, states are responsible for submitting data to the U.S. Fire Administration regarding which hotels and motels meet those specified standards. Note that, in this case, the regulatory body, Congress, did not implement a restriction on operating hotels without sprinkler systems; it simply prohibited funding, by the federal government, of any travel to such a hotel.

2.6 RESPONDING TO AN INQUIRY

Despite the best efforts of management, it is not uncommon for a facility to be found in violation of a regulation. Consider the case of Gerry Monteagudo. Gerry has, for

many years, heavily decorated the lobby and public areas of his hotel during the Christmas season. This year, shortly after the decorations had been put in place, Gerry received a letter from the local fire chief citing the hotel for three violations of the local fire code. An inspector noticed that some of the holiday lights were illuminated via the use of extension cords. These extension cords are not allowed, by ordinance, in the township where Gerry operates the hotel. In this case, the problem could be quickly rectified by replacing the extension cords with surge protector cords that are allowed by the local ordinance.

At the other extreme, consider the case of the hospitality manager who is notified that the IRS will be conducting an audit of tip-reporting compliance in her facility. The IRS auditors plan to trace the last three years of tips to all employees, and verify that the required employment taxes were paid on those tips. The manager, in assembling three years of paperwork, discovers that not all taxes were paid during the first year, before she assumed management of the facility. A penalty may still be assessed.

As can be seen, some regulatory violations can be very serious. Because that is true, it is a good idea to follow a standard set of procedures anytime a governmental agency raises the question of regulatory noncompliance.

As a manager, you should never willingly violate a legitimate regulation. In most cases, noncompliance is unintentional, and the governmental agency has, as its responsibility, the duty to inform management of violations. Because many of these agencies can have a significant effect on the facility and, in some cases the manager personally, it is best to respond quickly and professionally to any charge of noncompliance.

LEGALLY MANAGING AT WORK:

Recommended Steps for Responding to Inquiries and Complaints by Government Agencies

1. Upon notification of a complaint or violation, document the date and time that all paperwork was received, and be sure to check of correspondence for required deadlines.

Upon receipt of correspondence from a government agency, the first thing that you or your clerical staff must do is to note on the correspondence itself the date that it was received. This can be done manually, but preferably with a small mechanical stamping device (as shown in Figure 2.14). Be sure that you include the day, month, and year of receipt. This is important because many governmental agencies require you to respond within a certain number of days from the date you received the correspondence.

As you read the correspondence, be on the lookout for the due dates of responses. Some due dates are measured from the date of receipt; other due dates are measured from the date mailed. For instance, a letter might state, "If you do not respond within 10 days of your receipt of this correspondence, then we will assume that the claimant's position is true and act accordingly." This is known as an automatic default provision. It is imperative that if you

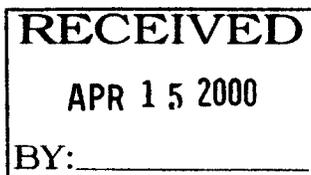


Figure 2.14 Date stamp.

intend to respond, you do so within the time frame specified in the correspondence. There is rarely a remedy to missing a deadline for an initial response.

2. Assess the severity of the complaint. Determine if legal consultation is necessary.

As you read the correspondence, you will need to decide if legal counsel should be consulted in order to deal with the complaint raised in the correspondence. Additionally, you will need to decide if the issue raised needs to be referred to your insurance carrier. It may be a good idea to fax the correspondence to your insurance agent to get his or her opinion as to whether or not there might be coverage for the particular concern raised.

In the event you do forward this matter to your insurance carrier, and the carrier determines that you are covered, ordinarily as part of your coverage, the carrier will provide an attorney to defend the claim. If the carrier denies you coverage, you will need to hire your own counsel. In the event that occurs, or in the event that you determine on your own that you need legal counsel when dealing with a government agency, you may want to consult with, or retain, an administrative law specialist, an attorney who devotes a significant part of his or her practice to handling complaints for alleged violations of government regulations and/or prosecutions by the government.

3. Develop a plan of action.

How you as a manager should respond to a complaint or violation will vary based on whether you have determined that legal assistance is needed.

WITHOUT AN ATTORNEY

- Calendar all response dates, and be sure to allow yourself enough time for mailing.
- Identify all the people who need to be involved in the response, and contact them in a timely fashion to solicit their input.
- Always keep clear, legible copies of anything that you forward as a response to a complaint. In any response that you give, if it is not true or you cannot prove it, do not state it in your response.
- Follow the instructions on the correspondence exactly. If it says that you only have one page to respond, then use only one page. If it says that the response must be typed, then make sure it is typed. If your response needs to be signed and a notary public must notarize your signature, be absolutely certain that it gets done, and make sure that the copies that you keep are copies of the responses after you have signed them and had them notarized.

WITH AN ATTORNEY

- Forward the correspondence immediately to your attorney, together with any supporting documentation that the attorney might need to understand the situation completely. Also, include a list of people who might have knowledge of the situation raised in the correspondence. It is a good idea to include contact information for the attorney. You want to facilitate communication between the attorney and any witnesses who can help present a positive response on your behalf.
- Stay in direct communication with your attorney until the matter is resolved. Just because you have given it to an attorney does not mean it is off of your plate. It is still crucial that you keep up with time deadlines and potential witnesses. For instance, if you know that certain people are going on vacation or you yourself are going on vacation, let the attorney know so that he or she can plan accordingly in the event he or she needs statements of additional information from you or the witnesses.

2.7 MONITORING REGULATORY CHANGE

It is simply not possible to know every governmental regulation that could affect the hospitality industry, and some laws change on a regular basis. Although changes in major federal law are rather well publicized, you cannot be sure that the policies of all federal agencies, state regulators, and local governments will be made known to you. Sources such as www.HospitalityLawyer.com can be very helpful in keeping managers current. The URLs listed in Figure 2.15 can be of help in following legislation at the national level. Reading about the hospitality industry will not only make you a better manager, but will also enable you to keep up with changing regulations.

For those managers employed by a national chain or management company, the parent company can be an excellent source of information on changing regulations. Indeed, one valuable service provided by franchisors to franchisees is regular updates on regulatory agencies and their work.

Because the federal government can play such a major role in regulating the hospitality industry, it is important to have current and rapid access to the actions taken by each of the federal regulatory agencies. Accessing the website addresses provided

HOSPITALITY INDUSTRY SAMPLING OF "WORLD WIDE WEB" HOME PAGE ADDRESSES FOR CORPORATE INFORMATION, REPORTS & PUBLICATIONS

HELPFUL LINKS

- ⇒ Hospitality Lawyer..... www.hospitalitylawyer.com
- ⇒ Restaurant.com..... www.restaurant.com
- ⇒ GoToMeeting..... www.gotomeeting.com
- ⇒ PrivateClubLawyer.com..... www.privateclublawyer.com
- ⇒ RestaurantLawyer.com..... www.restaurantlawyer.com

Figure 2.15 Hospitality industry web addresses.

Created by Cathleen Baird, director of archives, and maintained by Lateka Grays, supervisor of the Conrad N. Hilton College Library for the University of Houston, students, faculty, and hospitality industry professionals.

- ⇒ MeetingLawyer.com.....www.meetinglawyer.com
- ⇒ StephenBarth.com.....www.stephenbarth.com

LIBRARIES

- ⇒ Conrad N. Hilton College Library & Archives..... library.culinary.edu
- ⇒ MD Anderson Library UH info.lib.uh.edu
- ⇒ Harris County Public Libraries www.hcpl.lib.tx.us
- ⇒ Houston Public Libraries www.hpl.lib.tx.us
- ⇒ Library of Congress www.loc.gov

MISCELLANEOUS

- ⇒ Bizlink (Company Research..... www.bizlink.org
- ⇒ Book Directory www.bookdirectory.com
- ⇒ Business.com www.business.com
- ⇒ City of Houston..... www.houstontx.gov
- ⇒ Evaluating Websites.....www.library.cornell.edu/okuref/research/webeval.html
- ⇒ Find Articles.....www.findarticles.com
- ⇒ Find Law.....www.findlaw.com
- ⇒ USA gov (Links to Government Sites).....www.firstgov.gov
- ⇒ Greater Houston Partnership.....www.houston.com
- ⇒ Library Spot, Links to Reference.....www.libraryspot.com
- ⇒ Reuters.....www.reuters.com
- ⇒ Search Engine Watch.....www.searchenginewatch.com
- ⇒ Texas Work Commission.....www.twc.state.tx.us
- ⇒ The Elements of Style (Guide to Grammar and Writing).....www.bartleby.com/141
- ⇒ Thesaurus.com.....www.thesaurus.com
- ⇒ Webster Dictionary.....www.m-w.com
- ⇒ Citation Machine (APA and MLA citation help).....www.citationmachine.net

HOSPITALITY AND TOURISM ADDRESSES

- ⇒ (C.H.I.P.S.) Culinary & Hospitality Book Distributor....www.chipsbooks.com
- ⇒ AAA Diamond Rating Program.....www2.aaa.com/aaa/common/Tourbook/diamonds/whatisthis.html
- ⇒ ADA Home Page.....www.ada.gov
- ⇒ Atlapedia.....www.atlapedia.com
- ⇒ Aviation Week.....www.ovationnow.com
- ⇒ Technology Resource.....hoteltechresource.com
- ⇒ Daily Restaurant Industry News.....restsurantnewsresource.com
- ⇒ Boutique Lodging.....www.boutiquelodging.com
- ⇒ Casino Wire.....www.casinowire.com
- ⇒ CIA World Factbook.....cia.gov
- ⇒ Department of Transportation.....www.dot.gov
- ⇒ E-Hotelier.....www.ehotelier.com
- ⇒ E-Hospitality.....www.e-hospitality.com
- ⇒ Epicurious.....www.epicurious.com

Figure 2.15 (Continued)

⇒ Hospitality Trends.....	www.htrends.com
⇒ Food Service Central.....	www.foodservicecentral.com
⇒ Foodservice.com.....	www.foodservice.com
⇒ Gaming Commissions.....	www.gamingfloor.com/Commissions.htm
⇒ Hospitality Industry Resources.....	www.hospitalitynet.org
⇒ Hotel Chain Links.....	www.hotelstravel.com/chains.html
⇒ Hotel Interactive.....	www.hotelinteractive.com
⇒ Hotel Online (Daily News, Updates, and Reports).....	www.hotel-online.com/Neo/News
⇒ Houston Health Department Food Page.....	www.houstontx.gov/health
⇒ International Bed and Breakfast Directory.....	www.ibbp.com
⇒ ITA Tourism Industry.....	www.tinet.ita.doc.gov
⇒ Just Drinks.....	www.just-drinks.com
⇒ Just Food.....	www.just-food.com
⇒ Las Vegas Statistics, etc.....	www.lasvegas24hours.com
⇒ Lodging Research.....	www.lodgingresearch.com
⇒ Meetings Industry Mall.....	mim.com
⇒ PKF Texas.....	www.pkftexas.com
⇒ Search Hotels.....	www.searchhotels.com
⇒ Smith Travel Research.....	www.smithtravelresearch.com
⇒ Texas Lodging.....	www.texaslodging.com
⇒ Texas Travel Research.....	www.travel.state.tx.us/travelresearch.aspx
⇒ Tourism Research Links (for Researchers, NOT Travelers).....	www.waksberg.com
⇒ Wired Hotelier.....	www.wiredhotelier.com
⇒ World Biz.....	www.worldbiz.com
⇒ Daily Travel Industry News.....	www.travelindustrywire.com

Figure 2.15 (Continued)

in each section of this book is a good way to keep up to date on any changes in the law in that particular area.

As a hospitality manager, it is important to stay involved in the hospitality trade association that most closely represents your industry segment. The National Restaurant Association (NRA), the American Hotel and Lodging Association (AH&LA), the American Dietetic Association (ADA), and others regularly provide their memberships with legislative updates. Many of these organizations have state, regional, or local chapters that can be invaluable sources of information.

On a local level, chambers of commerce, business trade associations, and personal relationships with local police, fire, and building officials can help a manager stay up to date with municipal changes.

As a hospitality manager, it is critical that you take an active role in shaping the regulations that affect the industry. Governments, on the whole, attempt to pass regulations that they believe are in the best interests of the communities they represent. The problem arises, however, when the cost in dollars or the infringement on individual rights will far exceed the societal value of implementing a proposed regulation. For example, some consumers feel that it would be a good idea to have 24-hour video surveillance cameras placed in hotel corridors, even if the cost of installing them resulted in higher room rates. Such a camera might be a deterrent to crime

and would make them feel safer; however, other guests object to the cameras as an invasion of their privacy. Hotel managers caught in the middle agree that the safety of their guests is a major concern, but they also know that there are less intrusive ways to make people feel safe while respecting their privacy. Without input from the hospitality industry, however, regulators may not be aware of those alternatives and could pass a law that is ultimately not in the best interests of the hotel guest, the lodging industry, or society.

It is only by staying aware of regulatory changes and being committed to proactive participation in the regulatory process through education and leadership that the hospitality industry will continue to flourish.



INTERNATIONAL SNAPSHOT

Immigration

The growing globalization of the world's economy and labor markets, in addition to amplifying concerns regarding security, has increased the awareness of immigration issues for everyone. For employers in the hospitality industry, who want to secure "the best and the brightest" as well as meet the needs of a labor-intensive industry, these issues are especially acute. They must accomplish these goals while remaining in compliance with complicated immigration laws, rules, regulations, and processes.

Globally, the process of employing noncitizens in a given country typically requires some sort of sponsorship by an in-country employer. (One significant exception is certain European Union nations, which do allow for employment of nationals of other EU nations.) By and large, time-limited work authorization or work permits are available to noncitizens in highly skilled professions, to corporate transferees or those filling managerial/executive positions, and to certain entrepreneurs/investors. In many countries, permanent residence status is also available, allowing a noncitizen to work and remain in a given country permanently, typically after having been a lawful resident in the country for several years. The availability of temporary work authorization or permanent residence status for noncitizens who work in low-skill or unskilled positions is far less common.

In the United States, the immigration system classifies persons into two primary categories: citizens, born in the United States, born to a U.S. citizen parent, or naturalized as

U.S. citizens; and aliens, which essentially accounts for everyone else. The alien group is further divided into two primary segments: immigrants, who are aliens coming to the United States permanently or indefinitely (the terms "lawful permanent resident" and "green card holder" are used to describe persons authorized to remain indefinitely, for the remainder of their lives in the United States, subject to certain conditions), and nonimmigrants, who are aliens coming to the United States for a defined time period (e.g., three years) and for a definitive purpose (e.g., to work in a professional capacity for a U.S. employer.)

Typically, most nonimmigrants are limited to employment with a specific employer. For example, professional (specialty occupation or H-1B) workers employed in a capacity requiring a bachelor's degree or higher are generally limited to employment with their employer sponsor. Likewise, L-1 intracompany transferees (managerial or specialized-knowledge persons transferred by a multinational corporation from an office overseas to a U.S. office) are limited to employment within the multinational organization. The U.S. system also has a limited H-2B temporary worker nonimmigrant classification available to even unskilled workers. An employer must establish a short-term or seasonal need and demonstrate the unavailability of U.S. workers via a labor market test to employ such nonimmigrants. The most common use of this classification in the hospitality industry occurs at seasonal resort properties during the high season.

Unlike many other countries, permanent residence is not available to persons based on any particular period of U.S. residence but instead depends on specifically qualifying under existing family relation-based or employment-based categories. Most employment-based permanent residence cases require an employer to demonstrate the unavailability of a qualified, willing, and able U.S. citizen or lawful permanent resident worker, a labor market test known as labor certification. More senior or specialized persons can sometimes be sponsored without the need for labor certification.

Following the elimination of the Immigration and Naturalization Service (INS) as a separate

department, the Department of Homeland Security (DHS) was established in 2003 and assumed all INS responsibilities. U.S. Citizenship and Immigration Services (USCIS), a bureau within the DHS, handles the majority of functions that were once completed by the INS, including nonimmigrant and immigrant (permanent resident) petitions. The DHS U.S. Immigration and Customs Enforcement (ICE) handles enforcement of federal immigration laws and customs laws, including I-9/IRCA.

Provided by Andrew Galeziowski of Ogletree and Deakins Law Firm, Atlanta, Georgia. www.ogletreedeakins.com

WHAT WOULD YOU DO?

After the highly publicized death of a college student, a local sports bar in your town lost its liquor license for 60 days. The student had consumed 21 shots of alcohol on his birthday and later died

in his dorm room from alcohol poisoning. The bar was crowded, and because the shots had been purchased by a variety of friends of the victim, the bar manager and staff were not aware of the impending problem. Subsequently, the college's student newspaper published editorials warning against the perils of binge drinking and accused the management of the facility of negligence or indifference.

Sorrow in the community and outrage in the local press prompted the mayor of the city in which you operate your own Italian restaurant/pizzeria to propose a local ordinance banning the sale of more than three drinks per day to any individual. A drink, under the ordinance, would be defined as a 12-ounce beer, a 4-ounce glass of table wine, or a 1-1/2-ounce shot of liquor.

Violators would face a fine of \$5,000 per incident. Enforcement would fall to the local police. It is widely known in the community that the mayor, generally a strong promoter of business, is a nondrinker, and support for the ordinance is strong because of the accident.

As the elected president of your local restaurant association, you have been asked to address the proposed ordinance at the next meeting of the city council. Develop a plan of action and outline for your address to the city council. In your essay, answer the following four questions:

1. What issues will you consider as you prepare your statement to the city council?
2. What message do you believe the majority of citizens in your community will support?
3. Where will you turn for advice and counsel in preparing your statement?
4. Will it make a difference to you if you know that the local television station will cover the council meeting?

To emphasize the importance of a hospitality operator knowing about OSHA and its hazardous materials definition, consider the case of *Halterman v. Radisson Hotel Corp.*, 523 S.E.2d 823 (Va. 2000).

THE HOSPITALITY INDUSTRY IN COURT

FACTUAL SUMMARY

John Halterman (Halterman) was permanently injured while working for a Radisson Hotel (Radisson) in Alexandria, Virginia. H&H, the company Halterman worked for, was hired by Radisson to do some welding repairs to washing machines in the laundry facility of the hotel. The machines contained residue of a product called Liquid Lusterfixe, an acidic laundry detergent. None of the Radisson employees warned Halterman about the presence of the chemical. However, Radisson did maintain a display unit for material safety data sheets (MSDSs) on one wall of the laundry room. Those sheets listed all hazardous chemicals and their effects on humans.

During the welding process, the heat from Halterman's welding electrode caused the Lusterfixe to turn into a toxic gas. Halterman spent anywhere from 30 to 45 minutes welding on the machines without any protective breathing equipment. He breathed in unknown quantities of the gas while he worked on the washing machines. In all, the repairs took several hours to complete.

Halterman was in good health when he began the work. By the time he left the hotel, he had developed a cough. His cough worsened over the next few days, and he became short of breath. A doctor diagnosed him as having acute chemical pneumonitis. The gaseous compound he inhaled was known to cause pneumonitis. Eventually, he developed interstitial fibrosis, or scarring of the lungs. Halterman lost about one-third of his lung capacity.

Halterman sued Radisson Hotel for failing to maintain the laundry room in a safe manner and for failing to warn him about the presence of Liquid Lusterfixe, a hazardous chemical. He also sued Radisson for violation of the Hazard Communication Standard (HCS) of the Occupational Safety and Health Act (OSHA). Under OSHA, an employer is required to implement a written system for warning employees about hazardous chemicals used on the work site. Radisson was required to tell its employees and the employer of other employees about the existence of the MSDS display unit.

QUESTION FOR THE COURT

The question for the court was whether Radisson violated the HCS provision of OSHA. Halterman argued Radisson did not communicate the hazardous nature of the working conditions to him. Radisson responded by claiming it was not required by the statute to warn him about the hazard but was merely obligated to inform his employer of the existence of the MSDS display unit.

DECISION

The court ruled in favor of Radisson, holding that the only obligation under the statute was to communicate the existence of the MSDS display to Halterman's employer. Although Radisson had a duty to inform its own employees of hazardous chemicals present at the work site, there was no such duty for employees of other companies working at the hotel.

MESSAGE TO MANAGEMENT

Become familiar with your obligations under OSHA and meet them. Your employee's safety and the safety of others are at stake. Despite this ruling, the best practice is to make all aware of known dangers.

WHAT DID YOU LEARN IN THIS CHAPTER?

Federal, state, and local governments all pass laws and regulations that can potentially impact a hospitality operation. These laws and regulations are enforced by administrative agencies at all three levels of the government. Hospitality managers need to be familiar with the most common agencies and the areas of the industry that they regulate. In order to comply with these regulations, hospitality managers may be required to file forms, submit to inspections, apply for licenses, operate their business in a specified manner, and maintain their facilities and equipment in good working order.

Many government and nonprofit agencies publish guidelines for managers that can help you take the necessary steps to keep your facility in compliance with various regulations. In situations where federal, state, or local laws conflict with one another, the most restrictive regulation is the one that must be followed.

If you receive a complaint from a government agency, it is important that you take the appropriate steps to respond to the complaint in a timely fashion, respond in the manner requested, and develop a satisfactory plan of action. You may also choose to consult with an attorney or your insurance company, depending on the nature and severity of the complaint.

Government publications and websites, industry trade associations, and local community groups are common sources of information that hospitality managers can turn to for information on changing laws and regulations.

RAPID REVIEW

After you have studied this chapter, you should be prepared to:

1. Analyze the role of at least three federal entities that regulate the hospitality industry. Why do you think the federal government feels the need to be involved with regulation in each of these three areas?
2. Tip reporting is mandatory. Create a memo to a restaurant staff describing why they should comply.
3. Secure a material safety data sheet and compare its content to the list of required items detailed in this chapter.
4. Review the protected classes identified by the EEOC and determine if others should be added.
5. List five reasons a state's alcoholic beverage commission might revoke a liquor license. Prepare a five-minute bartender training session that addresses one of these reasons and how a restaurant or bar might avoid the difficulty.
6. Discuss the role of at least four of the eight federal regulatory bodies examined in this chapter.
7. Define the roles of the UNWTO, the IACO, and the WHO as they relate to travel.
8. Using the Internet, locate the home page of your state hotel and restaurant association. Secure the name of the person in the organization responsible for monitoring regulatory changes affecting the hospitality industry, and cite one such recent change in your state.
9. Go to www.HospitaltyLawyer.com and review the OSHA summary update in the Safety and Security Library.

TEAM ACTIVITY

In teams, list as many (at least ten in each category) local, state, and federal regulatory agencies that you would have to be concerned with if you were contemplating opening a country club in your community, with the following amenities: golf, tennis, pools, full-service restaurant, banquet facilities, and service of alcohol.