

PUBLICATION

The Coronavirus Challenge: What Hospitality Businesses Should Consider Doing Now

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As the novel coronavirus continues to spread, the landscape is constantly changing. New information is coming to light faster than it can be internalized and the economy, at the moment, is in constant flux. To date, the hospitality industry has borne the brunt of this upheaval. In these trying circumstances, it is important for hotels, restaurants, transportation servicers and travel companies to focus on implementing sensible policies to limit not only the spread of the virus, but also mitigate the risk of any potential legal liability.

Immediate Action: What steps hospitality companies should be taking now.

Regardless of business structure and clientele, there are a variety of steps that hospitality companies can take to isolate themselves from both infection and legal liability, without alienating their customers or employees.

- **Promote and emphasize general health and safety techniques.** Though the COVID-19 coronavirus is novel, there are tried and true steps that each individual can take to limit its spread. Methods such as proper hand washing, maintaining appropriate social distance, appropriate coughing/sneezing technique, and voluntary quarantine of those with symptoms are all effective ways to prevent transmission from one person to another. These techniques can be effectively communicated via signage posted on the premises and reminders provided by employees. Consider the first languages spoken by employees and whether translations will foster compliance.

While all businesses can, and if feasible should, promote proper health and safety, these efforts are particularly crucial in businesses that have routine customer-employee interaction, such as restaurants and ride-sharing services. In these contexts, noticeable signage can bolster customer confidence and even provide evidence of company efforts, should legal issues arise down the road.

- **Protect against the spread of misinformation.** It is just as important to ensure accuracy of any shared information on the coronavirus. New information is constantly being released, and not all of it is accurate or truthful. Companies should take special care to only post and encourage verified information, so as not to inadvertently contribute to spreading misinformation to customers and employees. If businesses fail to properly vet the health and safety information that they share, they may even risk legal liability. Post only verified information from trusted sources, such as the CDC and other qualified agencies or trusted health care providers.
- **Protect against cybersecurity threats.** As with potential misinformation, companies should also be on guard against cybersecurity threats. Scammers have already started taking advantage of fears and anxiety, posing as government agencies seeking financial and other sensitive data from unwitting companies. It is important to rely on trusted cybersecurity experts and approach any request for such information with due caution. This is particularly true as it relates to confidential health and other information of employees and customers.
- **Revisit your company's health and safety policies and procedures.** Now more than ever it is crucial that businesses have an appropriate health and safety policy in place, and that their employees adhere to that policy. Given the contagious nature of the virus, all businesses that rely on in-person interactions, from restaurants and hotels to ride-sharing services and travel companies,

must have set protocols in place to ensure that their employees are not contributing to the spread of infection.

These health policies should include, *at a minimum*:

- Routine disinfecting of commonly used surfaces and other areas likely to harbor and/or transmit the virus.
- Specific action to prevent the spread of the illness through employee-customer contact.
- Clear and definitive protocols for identifying and quarantining coronavirus-positive employees from the workplace.

If a company's health and safety policies are deficient, they should be amended and implemented as soon as possible. If the policies are adequate, companies should ensure that they are being precisely followed by every employee. Failure to do so could expose the company to legal liability related to contraction of the coronavirus.

- **Considering adopting additional coronavirus-specific policies and procedures.** Even policies that are "adequate" to deal with the spread of the coronavirus may nevertheless fail to instill confidence in a business's client base. The adoption of additional safety measures can help bolster customers' impression of the business and encourage continued or even increased patronage. Moreover, additional safeguards can help further limit potential liability fallout should a customer attempt to tie coronavirus contraction to that business. Such measures can include, but are not limited to:
 - Adopt self-service pay systems (e.g., credit card readers), combined with regular and thorough sanitization of the terminals.
 - Provide complimentary hand-sanitizer stationed at the store entrances and exits, and encouraging its use.
 - Temporarily suspend non-essential services and events deemed likely to increase spread of the virus (such as unnecessary work-place gatherings).
- **Prepare for potential employee issues.** Even with the most stringent health and safety efforts, there is no guarantee that employees will not contract the virus. Companies should:
 - Have a plan in place to deal with staffing reductions.
 - Have a detailed and prepared course of action in the event your operating costs (including employee wages and salaries) exceed revenues.
 - Have ready the most up-to-date information on your worker's compensation and business interruption insurance coverages. Please see our March 11, 2020 [Employment section](#) of the webinar.

Additionally, companies should closely monitor employees and their health conditions. If any employee is expressing symptoms, or there is a reasonable basis to believe that he or she has contracted the virus, businesses should take reasonable and appropriate precautions to ensure that the illness does not spread to other employees and customers. This may even include sending the employee home for a significant period. These efforts may be necessary not only to limit spread of the virus within the company, but also to shield the company from customer lawsuits in the future.

- **Be aware of other available assistance.** In addition to insurance coverage, businesses should also stay up to date on other available forms of relief. Most notably, President Trump recently directed the United States Small Business Administration (SBA) to make low-interest working capital loans available to small businesses affected by the pandemic. More details on this particular offering are available [here](#).

An Eye to the Future: What steps hospitality companies should be prepared to take down the road.

As suggested, certain events are likely to transpire across a number of companies and businesses – staffing reductions, decreases in revenue, and even legal liability. The most crucial step in anticipating and preparing for these issues is to follow the immediate action guidelines set forth above. These efforts will help reduce the risk of spread and legal liability, potentially obviating any further action. However, there are no guarantees, and the following steps could help lessen the impact of coronavirus on hospitality businesses in the future:

- **Remain vigilant against potential sources of liability, particularly those that may be otherwise overlooked.** Amidst the concern and focus on the coronavirus, it is somewhat natural to overlook other everyday concerns that can also engender risk to a business. Businesses that are experiencing greater financial strain from reduced business may be more inclined to take risks and pursue short-cuts that reduce cost. It is important to remember that traditional sources of risk and liability in the hospitality industry – slip and falls, tainted food products, and employee negligence – remain just as significant now as they did before the outbreak. As the industry reacts to the challenges of the coronavirus, it will be important not to allow other areas of concern to slip through the cracks.
- **If issues do arise, know where to turn for guidance.** The coronavirus is already impacting the legal world, from infection litigation to breach of contract actions. As discussed throughout, businesses can take concrete action to help limit their exposure. However, if disputes do arise, it will be important for businesses to coordinate with experienced counsel who specialize in these matters.

If you have questions on planning for potential impact of the coronavirus on your business, please contact [Sara Turner](#), [Chris Saville](#) or any member of [Baker Donelson's Hospitality Law Team](#). Also, please visit the [Coronavirus \(COVID-19\): What You Need to Know](#) information page on our website.