



Nine Reasons To Worry About Safety Compliance

Insights

12.01.15

The federal government has taken steps to create additional safety compliance obligations for hospitality employers that will make it more likely you'll be on the receiving end of an inspection in the near future. So what should you be worrying about?

Before we begin, it's important to note that hospitality workplaces are not generally considered to be high-hazard areas and thus are not usually a major priority for the federal safety watchdog agency, the Occupational Safety and Health Administration (OSHA). Many hospitality employers, in fact, have never been inspected by OSHA. Unfortunately, you might confuse not having been inspected with being in compliance, which is a mistake – there are many routine items which can easily fall through the cracks.

Nine Reasons To Worry

1. As of January 2015, employers have been required to report a single employee hospitalization, amputation, or loss of an eye. This new rule has generated thousands of new reports and resulted in OSHA inspecting workplaces that were previously not on their radar screen. The agency admits that one of its purposes in enacting the new rule was to gain access to previously unvisited employers.
2. OSHA is focusing on companies which have many locations, because there are more opportunities for error and noncompliance. OSHA can base costly "repeat" citations of up to \$70,000 on any previous violations that have been found at other company sites in the past five years. That's why you have been seeing six-figure OSHA citations against Dollar Tree Stores and other seemingly innocuous employers.
3. OSHA is attempting to expand the definition of "employer," and is actively cooperating with the NLRB in its efforts to assert liability against both franchisors and franchisees. This approach can pose a risk to hospitality groups with franchise arrangements.
4. OSHA and the Department of Labor's Wage and Hour Division are also attacking contractors on your site who are performing jobs or managing functions that were previously handled in-house, citing both the hotel and the contractor.
5. A fast way to earn OSHA's ire is for a temporary employee to be injured or killed. Pushed largely by the same unions and groups attacking your use of contractors, OSHA is in its second year of its Temporary Employee Initiative and heavily citing both the host and provider for violations. There are over 160,000 Temporary Providers, and quality varies. Similarly, many employers have

more care over respect, temporary, permanent, and quality, rather than safety, many employers have never carefully analyzed how they manage seasonal and temporary employees, and safety training and compliance may slip through the cracks.

6. OSHA has launched an all-out effort to inspect and cite employers for ergonomic and workplace violence hazards even though no OSHA standard exists for these matters. Both categories affect the hospitality industry; look no further than the string of harmful union-driven OSHA complaints brought on behalf of housekeepers suffering ergonomic injuries several years ago. OSHA has been laying the foundation to start citing employers for ergonomic hazards and it is serious this time. Unfortunately for those seeking better clarity on this subject, OSHA does not need a specific ergonomic standard to do so.
7. OSHA has adopted a “weighted inspection process” which now rewards OSHA Area Directors and Compliance Officers for conducting long-involved inspections on issues involving ergonomics and workplace violence.
8. Unions and their “Fight for 15” allies are filing OSHA complaints against their fast food targets, and this strategy will no doubt be used against other types of hospitality employers.
9. The recent Federal Budget Agreement slipped in an authorization for OSHA to increase penalties by a whopping 82% as of August 2016 ([see Alert here](#)).

These Changes Are Not Coincidental Or Unexpected

These efforts support one another and target many of the same groups. Unfortunately, hospitality employers fit into far too many of these categories for comfort. Consider, too, that these changes have been heavily driven by unions and their hunger for a bigger portion of the hospitality workforce.

The only reason that these new efforts are not flooding the business community is because OSHA is woefully underfunded and understaffed. If there is any silver lining to this story, it’s that the federal government does not currently have the resources to use all of the new hammers now at its disposal.

For all of the above reasons, employers should tune up their OSHA compliance efforts and train site management on how best to respond to OSHA inspections.

For more information, contact the author at HMavity@fisherphillips.com or 404.240.4204.

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Howard A. Mavity

Partner

404.240.4204

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