

PHASED RE-OPENING OF HOSPITALITY IN FLORIDA

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COVID-19 has already proven to be calamitous for America's hospitality industry generally and on the on-premises segment of the industry in particular. This month we look at some of the issues moving forward.

ROOM TO EXPAND?

There are many opportunities for the alcohol beverage industry during the phased in re-opening period which began May 4, 2020. For example, while occupancy within restaurants is restricted, occupancy for outside restaurant seating is not, with the exception of the social distancing between tables and a maximum of 10 persons per table.

If any license holder has an outside area that complies with local zoning/land use, the licensee may apply for a temporary or permanent licensed premises expansion to include any contiguous outside areas. This may increase revenues for restaurants at little additional expense for license holders.

Any outside dining plans should include the safety of employees and patrons due both to Florida's heat and the COVID-19 emergency, but misting fans, canvas covers, distancing patrons, and other products and enforced policies could create a well-appointed and safe outside dining area. Keep in mind, that your state food service agency, which will most likely be the Division of Hotels and Restaurants, will need to be involved for a compliance check. Outside food preparation is still a violation, including outside unprotected grilling, therefore all food preparation should occur inside and within the food preparation area.

As always, care must be given to food service and handling, temperatures, and keeping food safe for consumers to enjoy.

EMPLOYMENT SCREENING INTENSIFIES?

We are receiving many questions from business owners related specifically to employment law. While Florida has declared a state-wide emergency, the Florida Division of Alcoholic Beverages and Tobacco has not issued any specific orders mandating COVID-19 restrictions on licenses or statewide hospitality industry activities.

However, there is some departmental guidance in place: On March 17, 2020, the Florida Department of Business and Professional Regulations issued a bulletin which required all restaurants to screen employees and prohibit entry for any employee who answers "yes" to a range of questions regarding

- contact with cruise ships or airports
- attendance at any gathering of 50+ people
- international travel
- interstate travel (including but not limited to CA, WA, NY, MA, and Washington, D.C.)
- symptoms of respiratory infection, such as cough, fever, shortness of breath, or sore throat

In addition to such screening questions, employers are permitted to measure employees' body temperatures to screen employees; require employees returning to work to provide a doctor's note certifying fitness; require symptomatic employees to stay home; and withdraw a job offer to an applicant who is symptomatic.

NEXTS STEPS VITAL

As Coronavirus restrictions are lifted and restaurants begin to re-open, it is

almost certain that operations will be augmented. Restaurants can expect to i) have to limit the number of customer entry to something below current building occupancy; ii) stagger and limit seating to ensure seated parties are separated by a minimum distance of at least 6 feet and limit parties to a maximum of 10; iii) enhance cleaning procedures; and iv) continue and expand take-out and delivery services.

This has already become evident in Florida's phased reopening of certain business. Specifically, as of May 4, 2020, Florida began implementing a phased reopening of business state-wide. In Phase I, restaurants can reopen outdoor dining using social distancing guidelines (6 feet apart and no more than 10 people per table), and indoor dining is allowed at 25% capacity. However, bars, pubs, and nightclubs that derive more than 50% of their revenue from alcohol sales remain closed for on-premises consumption, and restaurant bar counters must also be closed for seating. [NOTE: These relaxed Phase I guidelines do not pertain to Miami-Dade, Broward, or Palm Beach counties.]

One thing is clear: the hospitality industry and its patrons must be prepared to adjust to the post-Coronavirus new normal. In the meantime, restaurants should exercise caution and continue to monitor official guidance. ■

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We encourage our licensed alcohol beverage readers to contact us with questions regarding their businesses. If you have questions regarding the content of this article and how it can apply to you, we suggest consulting with legal counsel that specializes in state and federal alcohol beverage regulations.