



## HOSPITALITY LAW

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Week 11: Your Responsibilities When Serving Food  
and Beverages



SANAA NALWALLA (2021), 5-Star Hotels In Pune Are Delivering Luxurious Food To Your Doorstep! | WhatsHot Pune, <https://im.whatshot.in/img/2020/Apr/41215842-2062970037054645-8180165235601047552-o-baan-tao-cropped-1586780385.jpg>



Bethlehem University (2022), Beverage Basics: Non-Alcoholic Beverages -, [https://www.bethlehem.edu/wp-content/uploads/2021/01/873.\\_Types\\_of\\_Decorations\\_and\\_Accompaniments\\_for\\_Non-Alcoholic\\_Beverages-AJAR.id-01-1200x600.jpg](https://www.bethlehem.edu/wp-content/uploads/2021/01/873._Types_of_Decorations_and_Accompaniments_for_Non-Alcoholic_Beverages-AJAR.id-01-1200x600.jpg)

# SERVING FOOD

- People all over the world love to dine out.
- As a hospitality manager involved with the service of food, you have a legal obligation to only sell food that is wholesome, and to deliver that food in a manner that is safe

- When a foodservice operation sells food, there is an implied warranty that the food is **merchantable**.
- Simply put, a foodservice manager is required to operate his or her facility in a manner that **protects guests** from the possibility of **foodborne illness or any other injury** that may be caused by consuming unwholesome food or beverages.

- **Unfortunately**, sometimes, food is served that contains something that the guest normally would **not** expect to find in the dish (for example, a small stone in a serving of refried beans).

- The question that must be answered in these cases is whether or not the food or beverage served was “ **fit** ” **for consumption.**

- The courts usually apply one of **two different tests** to determine whether a foodservice establishment is **liable** to a guest for any damages suffered from eating the food. (In the case of the stone found in the refried beans, **the damage may consist of a broken tooth** from biting down on the small stone.)

- **One test** seeks to determine whether **the object is foreign to the dish or a natural component of it**. If the object is foreign, then the implied warranty of merchantability (fitness) is **breached**, and the **foodservice operator would be held liable**

- If it is a **natural component**, the warranty would not be breached



# Walnuts

Hollis Templeton (2021) ,The 8 healthiest nuts,  
[https://www.mensjournal.com/.image/c\\_limit%2Ccs\\_srgb%2Cq\\_auto:good%2Cw\\_700/MTk2MTM3MDYxOTM2NzM1Mzc3/4-walnuts.webp](https://www.mensjournal.com/.image/c_limit%2Ccs_srgb%2Cq_auto:good%2Cw_700/MTk2MTM3MDYxOTM2NzM1Mzc3/4-walnuts.webp)

- The foreign/natural test is slowly being replaced by the “ **reasonable expectation** ” test.
- This test seeks to determine whether an item could be reasonably expected by a guest to be found in the food.

# Guest Safety

- To help foodservice operators prevent foodborne illness, **local health departments conduct routine inspections of restaurants and other food production facilities**, and may hold training or certification classes for those who handle food

# ANALYZE THE SITUATION 11.1

- HARRY DOLINSKI WAS THE EXECUTIVE CHEF at the Regal House hotel. One of his specialties was a hearty vegetable soup that was featured on the lunch buffet every Thursday

- Pauline Guilliard and her friends decided to have lunch at the Regal House one Thursday before attending an art exhibit. Ms. Guilliard read the lighted menu at the front of the buffet line.

- The chef's specials, including **the vegetable soup**, were written on the menu with a felt-tip pen. Ms. Guilliard selected the vegetable soup and a few other items, and consumed one full bowl of the soup.

- **Three hours later**, at the art exhibit, she suffered seizures and **had difficulty breathing**. It turned out that the soup contained **MSG—a food additive to which she had severe reactions**. Ms. Guilliard recovered, but her attorney contacted the hotel with a demand letter seeking compensation for her suffering

- The hotel's attorney replied that the soup served by the hotel was wholesome and that **Ms. Guillard's reaction to the MSG could not have been reasonably foreseen.**

- In addition, the hotel maintained that MSG is a **common seasoning in use worldwide for many years**, and thus it would have been the **diner's responsibility to inform the foodservice operation of any allergies or allergic reactions**. As a result, the liability for Ms. Guillard's illness was hers alone

# Your comments:.....!

- 1. Did the hotel have an obligation to notify guests that the soup contained MSG?
- 2. How do you think a jury would respond to this situation?
- 3. What should the chef do to avoid similar problems in the future?

# Steps to Take When a Guest Complains of Foodborne Illness

- 1. Document the name, address, and telephone number of the guest who complains of an illness, as well as the date and time the guest patronized your facility

- 2. Document **all items eaten** in your facility by the guest during the visit in question.
- 3. Obtain the name and address of the **physician treating the guest**. If the guest has not contacted a physician, encourage him or her to do so.

- 4. Contact the physician to determine if in fact a case of foodborne illness **has been diagnosed.**
- 5. **Notify the local health department immediately if a foodborne illness outbreak is confirmed,** so the staff there can assist you in determining the source of the outbreak, as well as identifying affected guests and employees.

- 6. Evaluate and, if necessary, modify your training and certification efforts that relate to the areas involved in the incident.
- 7. Document your efforts, and **notify your attorney or company risk manager.**

# TRUTH IN MENU LAWS

HOT DRINKS/BEVERAGES	
Tea	15
Dip Tea	20
Coffee	25
Black Tea	15
Black Coffee	15
Lemon Juice	15
Lemon Soda	20
Grape Juice	40
Mango Juice	40
Orange Juice	40
Pineapple Juice	35
Mosambi	35
Apple Juice	40
Lassi	35
Sharja Shake	40
Mineral Water	15
Soft Drinks-	Mrp
DESSERTS	
Ice Cream Vanil, Strawberry	40
Chocolate	50
Choco bar	Mrp
Faluda	45
Fruit Salad FreshFruit	75
Paradise Special Fruit Salad -	110

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9718589606**

Basment (2023), Hotel Menu Printing in Islamabad,  
<https://www.islamabadprinters.com/wp-content/uploads/2018/02/Hotel-Menu-Printing-in-Islamabad.jpg>

- As a hospitality manager, you have a right to **advertise** your food and beverage products in a way that casts them in their best light.
- Menus should accurately reflect the price to be charged to the customer

# SERVING ALCOHOL

- Throughout history, alcoholic beverages have played many roles.
- In some societies, they were thought to possess magical or holy powers. They were also an important part of medical treatment well into the 1800s.

- In various cultures, alcoholic beverages were considered a basic and essential food.
- Because beer, ale, and wine **did not** carry the diseases associated with drinking contaminated water, they became an accepted part of everyday meals.

# Privilege of Alcohol Service

- Alcohol is a **drug**. Historically it was used, like other drugs, to treat disease. And like other drugs, it is also a substance to which people can become **addicted**. Despite the fact that alcohol often creates a **euphoric state** in the user, it is a **depressant**.

## License to Sell

- Most countries that have restrictions on who can buy alcohol, will also have restrictions on who can do the selling.
- In order to sell alcohol, you may have to obtain a permit or license.

- **Intoxication:** A condition in which an individual's BAL reaches legally established levels.
- **Liquor license:** A permit issued by a state that allows for the sale and/or service of alcoholic beverages

# Permitted Hours

- Where a license is needed, there are often **restrictions on the times** you can sell alcohol. It is illegal to sell alcohol outside the hours specified by laws.
- The hours may differ depending on the type of license you have, e.g., whether you are selling alcohol to drink **on or off the premises** or **whether you are serving food to go with the alcohol**.

# Age & Alcohol

- In most countries, it is forbidden to sell beverage alcohol to a person under a **certain age**. For example, this threshold is 16 years in Rwanda, 18 in Hungary and 21 in the United States.

# When is Someone Drunk?

- It can be difficult to know when someone is drunk, and the amount of alcohol consumed will vary between different people.
- The law in Finland uses the following to define drunkenness - **“Persons who are behaving disturbingly or are clearly intoxicated”**.

- Another in law Denmark states, “You cannot serve a person who is drunk if **the person is a danger to himself or his surroundings**”.

# Risks to Staff & Business

- Drunk customers are more **difficult** to deal with
- More mess to clear up (**spillages, breakages, vomit, etc.**)
- More **disorder**, issues may escalate into aggression and violence more quickly

- Staff more at risk for harm
- Increased costs to premises of **replacing fixtures and fittings**
- Extra visits from the police, which puts license at risk

# References

- [1] STEPHEN BARTH (2009), Hospitality Law: Managing Legal Issues in the Hospitality Industry , p 327- 352 ,<https://www.pdfdrive.com/hospitalty-law-managing-legal-issues-in-the-hospitality-industry-e157128399.html>
- [2] IARD (2029), Responsible Service of Alcohol: A Server's Guide, <https://www.iard.org/getattachment/496d8c91-ba40-4995-8753-f3c1d1097704/tk-servers-guide.pdf>

Thank you!

Next lecture: Legal Responsibilities in Travel  
and Tourism

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