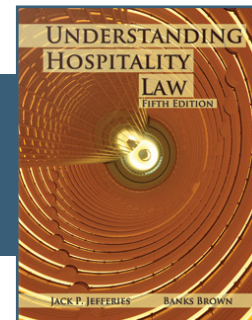


TABLE OF CONTENTS



Understanding Hospitality Law, Fifth Edition



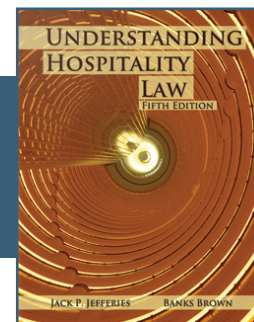
Authors: Jack P. Jefferies and Banks Brown **ISBN:** 978-0-86612-345-7

Preface	xvii	Contributory Negligence.....	23
About the Authors	xviii	<i>Only Four States Still Recognize Contributory Negligence</i>	
Part I: Some Basic Legal Principles Governing Hospitality Operations	1	Comparative Negligence.....	24
1 The Common Law Basis for Laws Governing the Hotelkeeper	3	Important Points for Management.....	25
Common Law	3	References, Key Terms, Review Questions, Internet Sites, Illustrative Case	26
State Court Decisions.....	5	Part II: The Hotel-Guest Relationship	35
Federal Court Decisions	5	4 The Hotel's Duty to Receive Guests and Its Right to Refuse Guests	37
Defining Hotels, Motels, and Inns.....	6	Duty to Receive Guests.....	37
<i>Definition of a Hotel • Definition of a Motel</i>		<i>Federal Civil Rights Law • Remedies Under Federal Law State Civil Rights Laws • The Business Reason to Obey These Laws Hotel's Duty to Receive Minors</i>	
Important Points for Management.....	8	Right to Refuse Persons.....	42
References, Key Terms, Review Questions, Internet Sites	9	<i>Possible Liabilities for Wrongful Refusal to Receive a Guest Restrictions on Advertising</i>	
2 The Hotelkeeper and the Law of Contracts	13	Important Points for Management.....	44
Definition of a Contract.....	13	References, Key Terms, Review Questions, Internet Sites, Illustrative Case	44
<i>"Offer Defined" • "Acceptance" Defined "Consideration" Defined</i>		5 Guest Reservations	57
Express and Implied Contracts.....	15	Form and Effect of Agreement.....	57
Bilateral and Unilateral Contracts	15	Guest Lawsuits for Damages	57
Void and Voidable Contracts	16	Overbooking Issues	58
Unenforceable Contracts.....	16	Important Points for Management.....	60
Statutes of Limitation	17	References, Key Term, Review Questions, Illustrative Cases.....	61
Important Points for Management.....	17	6 Convention and Group Contracts with the Hotel.. 73	
References, Key Terms, Review Questions, Internet Site	17	Convention Contract Format	73
3 The Hotelkeeper and the Laws of Torts and Negligence	21	Predicting the Future.....	77
Definition of a Tort.....	21	<i>Rates • Number of Guests • Cancellation Force Majeure Clause</i>	
<i>"Negligence" Defined</i>		A Word About Insurance.....	80
<i>Elements of a Tort Action Based on Negligence Res Ipsa Loquitur ("The Thing Speaks for Itself")</i>			

TABLE OF CONTENTS



Understanding Hospitality Law, Fifth Edition



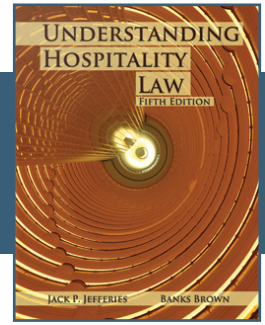
Authors: Jack P. Jefferies and Banks Brown **ISBN:** 978-0-86612-345-7

Contract Review	81	References, Key Terms, Review Questions, Internet Sites	135
Pertinent Case Law	81	10 The Hotel's Duty to Protect Guests.....	139
Important Points for Management.....	83	Reasonable Care Rule	139
References, Key Terms, Review Questions, Internet Site, Illustrative Cases	84	<i>Recreational Facilities, Exercise Rooms, and Health Clubs: Liability for Guests' Injuries</i> <i>Agreements Seeking to Relieve Hotels from Liability</i>	
7 The Guest's Right to Privacy	103	Acts of Hotel Employees	149
Guest Privacy Issues and Cases	103	Acts of Other Guests and Patrons	151
Important Points for Management.....	106	Assault by Third Parties in Restrooms.....	152
References, Key Terms, Review Questions, Internet Site, Illustrative Cases	106	Assault by Third Parties in Hotel Parking Lots.....	153
8 The Hotel's Right to Evict a Guest, Tenant, Restaurant Patron, or Others	115	Acts by Third Parties at Hotel Entrances.....	154
Distinction Between Guest and Tenant.....	115	Educating the Public in Travelers' Safety.....	154
<i>How to Distinguish Guests from Tenants</i> <i>Patrons in Hotel Restaurants and Bars</i>		Important Points for Management.....	156
When and How a Hotel Can Evict a Guest.....	116	References, Key Terms, Review Questions, Internet Sites, Illustrative Cases.....	156
<i>Violation of Hotel Regulations • Eviction for Non-Payment</i> <i>Refusal of Service Because of Unpaid Bill</i> <i>Eviction of a Guest Because of Illness • The Guest Who Overstays</i>		11 The Hotel's Liability Regarding Guests' Property. 191	
Eviction of Persons Other Than Guests	117	State Statutes Limiting Liability.....	191
State Laws on Eviction	118	<i>Liability for Valuables • Personal Property Other Than Valuables</i> <i>Guest's Room, Hallways, and Lobby • Checkrooms</i> <i>Baggage Rooms and Storerooms • Merchandise Samples</i> <i>Loss by Fire</i>	
Important Points for Management.....	120	Unclaimed Property.....	198
References, Key Term, Review Questions, Illustrative Case.....	121	Liability for Handling Mail for Hotel Guests.....	199
Part III: The Hotel's Duties to the Guest and Others. 125		Liability for Automobiles of Guests and Others.....	199
9 Americans with Disabilities Act—Public Accommodations	127	<i>Theory of Bailment • The Hotel's Claim When the Hotel Does Not Own or Manage the Garage</i>	
Title III—Public Accommodations	127	Important Points for Management.....	202
<i>Full Enjoyment Requirement</i> <i>Auxiliary Aids or Services Requirement</i> <i>The Removal of Barriers in Existing Facilities</i> <i>Accessibility of New or Renovated Hotels</i> <i>Accessibility of Transportation Services</i> <i>Enforcement and Penalties</i>		References, Key Terms, Review Questions, Internet Site, Illustrative Cases.....	203
Important Points for Management.....	134	12 The Hotel's Liability for Loss of Property of Non-Guests	223
		General Nature of Liability.....	223
		Bailments for Non-Guests	223

TABLE OF CONTENTS



Understanding Hospitality Law, Fifth Edition



Authors: Jack P. Jefferies and Banks Brown **ISBN:** 978-0-86612-345-7

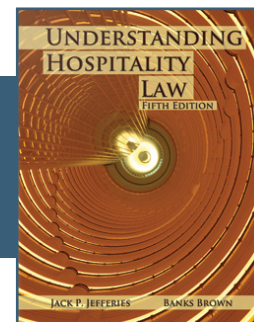
Hotel Liability for Restaurant Patrons' Property.....	224
Hotel Defenses to Liability Claims.....	224
Important Points for Management.....	225
References, Key Terms, Review Questions, Internet Site, Illustrative Case.....	225
13 Safekeeping Facilities.....	231
Guests' Valuables.....	231
Posting Notices.....	231
Statutory Limits on Hotel's Liability When Hotel's Negligence Is Alleged as Cause of Loss.....	233
<i>Constitutionality of Statutory Limits</i>	
Important Points for Management.....	234
References, Key Term, Review Questions.....	235
14 Frauds Committed Against Hotels and Crimes of Trespass.....	239
Crimes Against Hotels.....	239
<i>Defrauding a Hotel • Credit Card Fraud • Bad Checks</i>	
How Hotels Can Take Advantage of Criminal Statutes...	241
Caveats on Detention of Guests.....	241
Important Points for Management.....	243
References, Key Terms, Review Questions, Illustrative Case.....	243
15 Deceased Guests.....	257
Disposition of Property of Deceased Guest or Patron....	258
<i>Delivery to Executor or Administrator • Tax Waiver Property of Little Value</i>	
Role of Public Administrator and Police Department.....	259
Important Points for Management.....	259
References, Key Term, Review Questions.....	260

Part IV: Restaurants, Food Service, and Bars.....	261
16 General Laws Regarding Food.....	263
Federal Laws Regarding Food.....	263
State and Local Laws Regarding Food.....	263
General Liability for Unwholesome Food.....	264
Warranties.....	266
Privity of Contract.....	267
Uniform Commercial Code.....	267
Strict Liability.....	270
Important Points for Management.....	270
References, Review Questions, Internet Sites, Illustrative Case.....	271
17 Other Laws Relating to Food Service.....	277
Truth-in-Menu Laws and Labeling Laws.....	277
Other Food Service Issues.....	279
<i>Kosher Food • Prohibition Against the Use of Sulfiting Agents New York State Sought Pesticide Notice to Guests New York City Law Banning Trans-Fats • Caloric Labeling Laws</i>	
Important Points for Management.....	280
References, Key Term, Review Questions, Internet Site.....	280
18 State Laws Relating to Alcoholic Beverages.....	283
General Nature of Control by State.....	283
Application for and Issuance of Licenses.....	283
General Restrictions on Licensees.....	284
<i>Removal • Corporate Changes • The Employment of Minors Illegal Sales</i>	
Liability Under State Dram Shop Acts.....	285
Common Law Liability for Serving Alcoholic Beverages to Intoxicated Persons.....	286
Hours and Premises of Sale.....	287

TABLE OF CONTENTS



Understanding Hospitality Law, Fifth Edition



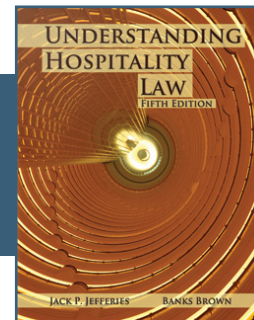
Authors: Jack P. Jefferies and Banks Brown **ISBN:** 978-0-86612-345-7

Books and Records.....	287	References, Key Terms, Review Questions, Internet Site	313
Important Warning.....	287	21 Laws Against Discrimination in Employment	317
Important Points for Management.....	287	Federal and State Laws	317
References, Review Questions, Internet Site, Illustrative Case.....	288	Sex Discrimination	317
Part V: The Hotel and Its Employees	293	Age Discrimination.....	318
19 Wage and Hour Laws Applicable to Hotel Employees	295	Race Discrimination.....	319
Coverage of Federal and State Laws.....	295	Religious Discrimination	320
Minimum Wage Rates Under Federal Law.....	295	National Origin Discrimination.....	320
<i>Tip Credits</i>		Affirmative Action Programs.....	320
FICA and FUTA Taxes.....	296	Marital Status Discrimination	321
Meals and Lodging.....	298	The Civil Rights Act of 1991	321
Uniform Maintenance	298	Sexual Harassment of Employees	322
Student Employees.....	299	Pregnancy Discrimination Act.....	326
Important Points for Management.....	300	Americans with Disabilities Act—Employment	326
References, Review Questions, Internet Sites, Illustrative Case.....	300	<i>Definition of "Disability" • Qualified Individuals • Drug Testing Infectious and Communicable Diseases Reasonable Accommodations Requirements Exceptions for Undue Hardship • Pre-Employment Interviews ADA Posting Requirements • Enforcement and Damages State and Local Disability Discrimination Laws</i>	
20 The Family and Medical Leave Act	307	Discrimination in Advertising for Employment.....	332
Covered Employers and Eligible Employees.....	307	Important Points for Management.....	333
<i>Leaves of Absence for Eligible Employees • Leave Schedules The Relationship of FMLA Leaves to Other Forms of Paid or Unpaid Leave • Health Benefits During the Leave Additional Protection for Employees Exception for Highly Compensated Employees Prohibitions for Employers • "Serious Health Condition" Defined Spouses Employed by the Same Employer Employee Responsibilities Employee Transfers to Alternative Positions Change or Termination of Employment Special Considerations for Unionized Employees Employer Penalties for Non-Compliance</i>		References, Key Terms, Review Questions, Internet Sites	333
The FMLA's Effect on State Laws	311	Appendix A: Federal Guidelines on Sex Discrimination—Sexual Harassment.....	337
Regulations.....	312	Appendix B: Model Harassment Policy.....	338
Important Points for Management.....	312	Illustrative Cases.....	339

TABLE OF CONTENTS



Understanding Hospitality Law, Fifth Edition



Authors: Jack P. Jefferies and Banks Brown **ISBN:** 978-0-86612-345-7

22 Use of Lie Detector Tests by Hotel Management . 359

Employee Polygraph Protection Act of 1988..... 359
General Prohibitions • Exemptions
Additional Requirements and Protections
Enforcement and Penalties

How Lie Detectors Function..... 361

Caution in Using Tests..... 361

Important Points for Management..... 362

References, Review Questions, Internet Site,
Illustrative Case..... 362

23 National Labor Relations Act..... 367

Rights of Employees..... 368

Employee Elections 368

Unfair Labor Practices..... 369

Procedures in Unfair Labor Practice Cases
Remedies in Unfair Labor Practice Cases

“Right-to-Work” Laws 371

Important Points for Management..... 372

Reference, Key Term, Review Questions,
Internet Sites 372

24 Immigration Reform and Control Act of 1986 375

Verification of Employee Eligibility 375
Documentation • Completion of Form I-9

Penalties..... 378
Penalties for Failing to Comply with Form I-9 Requirements

Anti-Discrimination Provisions..... 381

Conclusion 382

Important Points for Management..... 382

References, Review Questions, Internet Site 382

25 Federal Social Security, Unemployment Insurance, and Workers’ Compensation 385

Federal Insurance Contributions Act (FICA) 385

Withholding of Employee’s FICA

Employee’s Social Security Card • Returns and Payment of Tax

Employer Credit for FICA Paid on Tip Income • Records

Social Security on Orchestras

Important Points for Each Hotel to Check

Federal Unemployment Tax Act (FUTA) 388

Employers Subject to FUTA • Returns and Payment of FUTA Tax

Rate of Tax and Credits Against Tax • Records • Penalties

Unemployment Insurance Payments on Hotel Orchestras

FICA and FUTA Taxes on Tips

Employees’ Free Meals Furnished for the Convenience of the

Employer—the FICA and FUTA Tax Question

State Unemployment Insurance Programs 390

State Laws on Workers’ Compensation..... 391

Important Points for Management..... 392

References, Review Questions, Internet Sites..... 393

26 Federal Income Tax: Withholding and Reporting Requirements 397

General Nature of Law—Federal Income Tax 397

Determination of Wages..... 397

Deposit of Tax..... 397

Returns and Payment of Tax..... 398

Withholding Statements to Be Furnished
to Employees 398

Annual Report of Withholding..... 398

Meals and Lodging..... 399

Tip Reporting..... 399

Important Points for Management..... 401

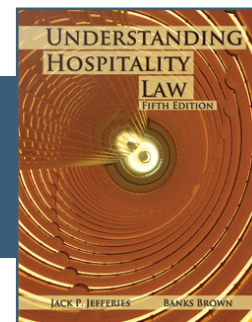
References, Review Questions, Internet Sites..... 402

Appendix: Tip Reporting Alternative Commitment..... 404

TABLE OF CONTENTS



Understanding Hospitality Law, Fifth Edition



Authors: Jack P. Jefferies and Banks Brown **ISBN:** 978-0-86612-345-7

Part VI: Laws Relating to General Hotel Operation .. 413

27 Maintenance of Guest Registers 415

Examination of Guest Registers and Records by
Police Officers and Others 415

Election Laws 417

Important Points for Management 418

References, Key Terms, Review Questions,
Internet Site, Illustrative Case 418

28 Consumer Protection Laws Affecting Hotels 423

The Federal Consumer Credit Protection Act 423

State Laws Protecting Consumers 423

Credit Card Laws

Consumer Contracts: Print Size and Plain Language Laws

Catering Contracts • Posting of Rates • No-Smoking Laws

Important Points for Management 427

References, Review Questions, Internet Sites 427

29 Public Health and Safety Requirements 429

Building Codes 429

Hotel Linens, Towels, and Glasses 431

Water Supplies, Sewage Systems, and Drainage 431

Contagious Diseases 432

Swimming Pools 432

Laws Regarding Aid to Choking Victims 432

Important Points for Management 433

References, Review Questions 434

30 Occupational Safety and Health Act 437

Reporting and Recordkeeping Requirements 438

Posting Requirements 440

Inspections: Employers' and Employees' Rights
and Remedies 440

State Workplace Safety and Health Programs
Under OSHA 442

OSHA Regulations on Bloodborne Pathogens 443

Medical Emergencies 445

Hazard Communication Standard 445

Important Points for Management 447

References, Review Questions, Internet Site 448

31 Licensing and Regulation of Hotels by Cities, Towns, and Villages 451

Types of Regulation 451

Licenses to Operate, Certificates, Permits, and Inspections

Other Local Regulations • Taxes

Important Points for Management 453

References, Key Terms, Review Questions,
Internet Site 453

32 Telephone Service and Resale Rights 457

Resale of Interstate and International

Telephone Service 457

Posting Telephone Notice

Intrastate Calls 458

Pay Phones 458

Telephone Regulations for the Hearing-Impaired 458

Important Points for Management 459

References, Key Term, Review Questions,
Internet Sites 459

33 Copyright Laws for Music, Television, Video, and Movies 463

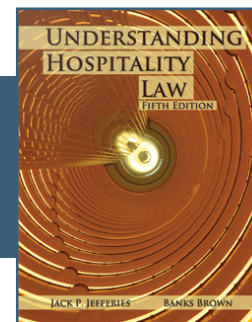
Copyright Societies 463

Exemptions Under the Copyright Act of 1976 464

TABLE OF CONTENTS



Understanding Hospitality Law, Fifth Edition



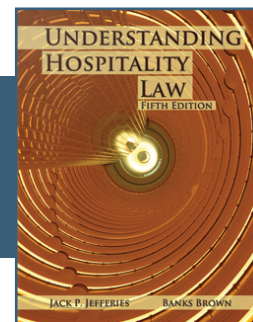
Authors: Jack P. Jefferies and Banks Brown **ISBN:** 978-0-86612-345-7

Unauthorized Interception of Cable Television Broadcasts..... 465 <i>The Communications Act of 1934—47 U.S.C. § 605</i> <i>The Copyright Act of 1976, as Amended</i> <i>State Statutes and Common Law Causes of Action</i> <i>The Cable Communications Policy Act of 1984</i>	References, Review Questions, Internet Sites..... 492
Videodisc and Videocassette Movies..... 467	36 Warranties and Product Liability 495
Important Points for Management..... 468	Warranties 495
References, Key Terms, Review Questions, Internet Sites 468	<i>Express Warranties • Implied Warranties</i> <i>Seller's Disclaimers of Express and Implied Warranties</i> <i>Warranties of Title</i>
34 Fire Safety Laws..... 471	Federal Laws on Product Liability 501
Federal Laws—OSHA 471	<i>Consumer Product Safety Act</i> <i>Proposed Federal Laws on Product Liability</i> <i>Basic Standards of Responsibility for Manufacturers Under the Act</i> <i>Basic Standards of Responsibility for Non-Manufacturer Product Sellers</i>
<i>OSHA Regulations on Fire Brigades</i> <i>Fire Equipment Standards of OSHA</i>	State Laws on Product Liability 503
State and Local Fire Legislation..... 475	Important Points for Management..... 504
Federal Fire Safety Act..... 476	References, Review Questions, Internet Sites, Illustrative Case..... 505
Court Cases..... 477	37 Antitrust Laws and Hotels 513
<i>Civil Actions • Criminal Actions</i>	The Purposes of Antitrust Laws..... 513
Private Sector Aids 479	Major Antitrust Statutes..... 513
Important Points for Management..... 480	<i>The Sherman Act • The Clayton Act</i> <i>The Federal Trade Commission Act</i>
References, Key Term, Review Questions, Internet Sites 480	Requirement of an "Agreement" 517
35 Taxes..... 485	Penalties for Violation of Antitrust Laws..... 518
Franchise Taxes on Corporations 486	Application of Antitrust Laws 519
Unincorporated Business Income Taxes..... 486	<i>Relations Between Individual Hotel and Motel Operators</i> <i>Relations with Third Parties: Suppliers and Customers</i> <i>Hotel and Motel Trade Associations</i>
Sales and Use Taxes..... 486	Important Points for Management..... 522
Hotel Room Occupancy Taxes 487	References, Review Questions, Internet Sites, Illustrative Case..... 523
Federal Liquor Taxes..... 488	38 Understanding Franchising 531
<i>Enforcement of Federal Law • Special Tax on Retail Liquor Dealers</i> <i>Mixing of Cocktails • Used Liquor Bottles • Records to Be Kept In Conclusion</i>	What Is Franchising? 531
State Liquor Taxes 490	The Franchise Contract 531
Important Points for Management..... 491	<i>What to Look for in Reviewing the Franchise Contract</i>

TABLE OF CONTENTS



Understanding Hospitality Law, Fifth Edition



Authors: Jack P. Jefferies and Banks Brown **ISBN:** 978-0-86612-345-7

Federal Trade Regulations.....	534
<i>When Disclosures Must Be Made • Other Disclosures</i>	
<i>Franchise Disclosure Document</i>	
<i>Acts or Practices Which Violate the FTC Rule and Potential Liabilities</i>	
A Note on Hotel Management Contracts.....	536
Important Points for Management.....	537
References, Key Term, Review Questions, Internet Sites	538
39 Legal Issues Involving the Internet.....	541
How the Internet Functions.....	541
Privacy Concerns	541
Antitrust Concerns.....	542
Music Copyright Concerns	543
Employees' Use of the Internet.....	544
Important Points for Management.....	544
References, Key Terms, Review Questions, Internet Sites	544
Appendix: Sample Electronic Communication Systems and Resources Policy	546
40 The Impact of Terrorism on Laws	
Governing Hotels.....	551
The USA PATRIOT Act.....	552
Check Cashing.....	552
<i>Suspicious Activity Reporting</i>	
Specially Designated Nationals	554
Important Points for Management.....	555
References, Review Questions, Internet Sites.....	556
Appendix A: A Glossary of Selected Legal Terms	559
Appendix B: Franchise Contract XYZ Motel Franchise System: A Hypothetical Example.....	567
Appendix C: National Labor Relations Act.....	575

Index **595**

Request a review copy of
*Understanding Hospitality Law,
Fifth Edition* at
www.AHLEI.org/desk-copy



The American Hotel & Lodging Educational Institute (AHLEI) has been a leader in hospitality education, training and certification for more than 65 years. AHLEI's hospitality management textbooks (available in print and eBook formats) create a bridge between classroom and industry by focusing on the knowledge hospitality professionals have identified as important. Every AHLEI course comes with a final exam that leads to an academic certificate of completion; students can also earn professional certifications from the American Hotel & Lodging Association, giving them marketable credentials as they begin their careers. Visit www.ahlei.org for more information.