

INNKEEPERS LIABILITY

Managing Hospitality Risk

WHAT'S AT RISK?

Statistics gathered by NSU over a five-year period show that 20% of all claims made against hotels are for loss of, or damage to, personal property of guests. The average claim of this type costs almost \$1,600 to settle.

Common law dictates that an innkeeper will be liable for losses to guest's property, unless there are clearly mitigating circumstances such as "an act of God", civil unrest, or the guest's own negligence caused the damage or loss.

This leaves the modern hotel manager with a very difficult task. Guests often bring large amounts of cash and valuable personal property into hotels. Recognizing this potential burden on the hospitality industry, each state has enacted laws, called Innkeeper Statutes, that limit, under specific circumstances, the exposure of innkeepers. In return, the innkeeper must adhere to certain specific security standards.

WHAT ARE YOUR LEGAL OBLIGATIONS?

This depends on which state you operate in. To fully understand and comply with state regulations, it is important that you stay current on all regulations. The common thread of the Innkeeper Statutes is that you will be held in almost "strict liability" for losses to specified types of guest property. The amount varies from state to state, but generally the responsibility is limited to a certain figure, usually \$500 to \$5,000. This issue of fault and comparative liability also differs. Some states require that the claimant prove



negligence on the innkeeper's part, while other states simply require that claimants prove they were guests at the time of the loss and that an item or items were indeed missing.

In most states, an innkeeper is not required to accept an unlimited amount of personal property for safekeeping. A monetary limit is usually described in the statute. Most states place a dollar limit on the replacement value of luggage and the contents of luggage. In almost every state, if the staff is negligent or fails to follow the details of the statute, the limitation on liability may disappear, and you could face a claim for the full value lost, regardless of amount.

HOW CAN YOU BETTER PROTECT YOUR ORGANIZATION?

For some suggestions designed to assist you in developing sound policies and procedures for your organization, please turn this document over and review the attached checklist.

For more information about this and other hospitality risk management topics, please contact:

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Checklist: Innkeeper's Liability

- Know your state laws:** Management and security staff should be familiar with the governing statutes in your state, and you should annually check for any amendments to the statute, or case interpretations, which may have changed the requirements. New employees should be trained on the statutes.
- Post notice:** In addition to amount and issues of fault, most states require hotels that want the benefit of the limited liability to post a copy of the statute for each guest to view and therefore be “put on notice” or made aware of such limitations. For the most part, these statutes traditionally are posted within the guest room, on the back of a door or on a closet wall. If a hotel wishes to take advantage of a state’s laws limiting its liability for a guest’s possessions, the guest must be made aware of the existence and content of that law, through a conspicuous posting (posting requirements vary by state.)
- Provide a secure safe:** The hotel must provide a safe where guests can keep their valuables during their stay. Hotels in most states are required to provide a safe for guest valuables and to operate the safe in a reasonable manner (good working order, restricted access, close monitoring). Some statutes proscribe minimum standards for the construction of the safe. Make sure your safe(s) meet or exceed those standards.
- Put suitable locks on doors and windows:** All doors and windows providing access to rooms must have proper locks.
- Follow the requirements of the Liability Law to the letter:** Perhaps the key point to remember about Innkeeper Liability laws is that the hotel must follow the requirements of the law very strictly and literally, otherwise their protection under the law is voided. If the law says that notice must be posted in 15 locations, then 14 postings won’t do.
- Protect mislaid, lost, and abandoned property:** Require all employees and management staff to turn in to the property manager, or to his or her designee, all personal property found in public places (lobbies, foyers, restrooms, etc.) as well as property found in rented areas such as guestrooms, suites, cabins, and campgrounds.
- Keep a lost-and-found logbook:** In the log, record the name of the finder, the individual who received the found goods, the location where the property was found, and the date found.
- Make a good-faith effort to locate the rightful owner:** If the value of the found item is significant, make all reasonable efforts to locate the rightful owner, and document these efforts.
- Establish appropriate time frames:** Hold found property for a period of time recommended by your company or a local attorney familiar with the laws in your state regarding found property. Sixty days should be a minimum length for most found property.
- Limit personnel allowed to handle property:** Permit only the property manager or his or her designee to return found property to purported owners, but only after taking extra care to return the item only to its rightful owner.
- Dispose of property in a fair, consistent manner:** If the original owner does not come forward, dispose of the property in accordance with written procedures that have been shared with all employees and reviewed by your attorney. Many managers give found property to those who found it, as a reward for employee honesty; others to charity; others have a once or twice a year liquidation.