



Maryland Hotel Lodging Association

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Legal Guide: Innkeeper's Rights and Duties

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Obligation under the Common Law

It is a fundamental principle of hotelkeeping that the hotelkeeper is engaged in a “public employment” and must take into the hotel travelers who apply to be received as guests. However, under certain circumstances, the hotelkeeper may refuse to receive persons applying. Unless these circumstances exist, the hotel must take the person in. This obligation is derived from the public nature of the hotel operation.¹

Federal Civil Rights Law

The Civil Rights Acts of 1964 contain certain laws prohibiting places of “public accommodation” from discriminating against any person on the grounds of race, color, religion, or national origin. As stated in 42 U.S.C. § 2000a et. seq.:

§ 2000a: Prohibition against discrimination or segregation in places of public assembly

“(a) All persons shall be entitled to the full and equal employment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the grounds of race, color, religion, or national origin”.²

This section specifically defines a “place of public accommodation” as including hotels, motels, inns, taverns, roadhouses, barrooms, barbershops, and beauty parlors, as well as many other places.

The federal law applies to any establishment affecting interstate “commerce”. * In the case of hotels, motels, or other establishments that provide lodging to transient guests, such are deemed to affect interstate commerce under 42 U.S.C. §2000a(1). Therefore, hotels are covered by the federal civil rights laws.³

*** Definition:** “Interstate Commerce” means travel, trade, traffic, commerce, transportation, or communication among the several states, or between the District of Columbia and any state, or between any foreign country or any territory or possession and any state or the District of Columbia, or between points in the same state but through any other state or the District of Columbia or a foreign country.

THE HOTEL’S DUTY TO RECEIVE MINORS

The hotelkeeper’s duty to receive guests is not confined or limited to the reception of guests who have the ability to contract. Under the common law a hotelkeeper is required to receive a minor on the theory that they are as much in need of the protection of the hotel while upon a journey as any other person.⁴

In most cases, parents of the minor child are liable under common law for meals and lodging furnished to a minor child whom they are obligated to support. Unless there is a special agreement, this liability applies only to meals and lodging, which at law are called “necessaries.” In general it does not apply to other items, such as bar charges, theater, airplane, or railroad tickets.⁵

Except for the obligation of minor’s parents, the hotel can collect directly from the minor only for “necessaries.” Thus, if the minor refuses to pay, the hotel can pursue the minor’s parents.

2002 Legislation

In 2002, the Maryland General Assembly provided some statutory protections to innkeepers dealing with a person under 18. Under Maryland Code, Business Regulation, § 15-205, effective October 1, 2002, an innkeeper may require the person’s parent or guardian to (1) accept liability for the cost of the person’s lodging and any damages and (2) provide a valid credit card or make an advance cash deposit of not more than \$500 to cover the person’s charges and any damages. After inspecting the room upon checkout, the innkeeper must refund any portion of an advance deposit not needed to cover reasonable charges for damages.

¹ Jeffries at 33.

² 42 U.S.C. § 2000 a (b).

³ Jeffries at 34.

⁴ Jeffries at 34.

⁵ Id.

Government Per Diem Rates

Information on per diem rates is generally available at www.gsa.gov/perdiem. Information on the Fedrooms Program (formerly Federal Premier Lodging Program) is available at www.fedrooms.com.

When a lodging establishment is dealing with a federal employee or a person seeking to receive a federal government rate, it should ask the person for his or her federal employee identification. It should also have on file a certificate.

REFUSING A GUEST LODGING

The general rule is that a hotel cannot refuse accommodations to anyone seeking them. This is true regardless of the hour of the guest's arrival. Depending on the circumstances, a hotel may be fined for refusing accommodations.

However, several exceptions to the general rule exist. In these circumstances a hotelkeeper can legitimately refuse to provide lodging. If a hotel has no vacancies it may refuse a would-be guest. "No vacancies" can exist even though some rooms are not occupied provided those rooms are legitimately out of service. For example, they are being painted, refurbished, or repaired, or the unoccupied rooms are being held for reservations. A hotel that refuses accommodations to someone seeking a room and later accepts a different guest will have to explain its actions if challenged by the person who was turned away.¹

The hotelkeeper can also refuse persons who are intoxicated, disorderly, unclean (not bathed), or suffering from a contagious disease. Furthermore, the courts have also allowed innkeepers to refuse known criminals or persons of bad reputation because of the effect such guests may have on the reputation of the hotel.²

A prospective guest who is not able or willing to pay in advance a reasonable price for a room for the duration of the stay intended may be refused. However, if the person seeks an available room for five days but can only prove ability to pay for one, the innkeeper must provide the person with a room for one night.³

A hotel can also refuse to accommodate guests with firearms, explosives, or pets. In recent years all states have adopted statutes that forbid refusing services to a person with a "seeing eye dog". Many of these statutes have been expanded to include service dogs that aid individuals who are sighted but otherwise disabled people. The American's with Disabilities Act, a federal law, (to be discussed later herein) likewise requires a hotel to accommodate seeing eye dogs and other service animals.⁴

In Maryland, if one of the above conditions occurs, general contractual, public accommodation and criminal law governs. For example, if a guest is drunk and disorderly, you should contact your local police department and have this person removed from your premises; or, if a person is unwilling or unable to pay for hotel services, then they are in breach of Maryland contractual law.

2002 Legislation

In 2002, the Maryland General Assembly codified certain protections for innkeepers in these situations. Under Maryland Code, Business Regulation, § 15-203, effective October 1, 2002, an innkeeper may refuse to provide lodging or services to a person, or remove a person from a lodging establishment, for nonpayment for service, being a public nuisance due to intoxication or disorderly conduct, destruction of property, possession or use of controlled substances, possession of firearms or explosives, or refusal to abide by posted rules or policies. The statute requires the innkeeper to post a copy of its provisions and of the "house rules" in a conspicuous place and in each guest room.

¹ Norman G. Coumayer, et al., "Hotel, Restaurant, and Travel Law: A Preventive Approach," Delmar Publ., page 352 (1993).

² Id.

³ Id. at 353.

⁴ Id.

HOTEL'S RIGHT TO EVICT GUEST

Under certain circumstances a hotel has the right to evict a guest, using, of course, only necessary and reasonable force. The following are grounds for eviction.

- Failure to pay Hotel Bill
- Overstaying
- Intoxication and Disorderly Conduct
- Contagiously ill Guests
- Breaking House Rules
- Persons Not Registered

The hotel has the right to evict a guest who has failed to pay the hotel bill when due. Ordinarily, the hotel makes a demand upon the guest for the amount of the bill and requests the guest to leave by a certain hour if the bill is not paid. If the guest fails to pay after this demand, the hotel can evict the guest.¹

Overstaying

Occupying a room beyond the agreed time is grounds for eviction. The contract for a room is for a definite time, be it one day, a week, or longer. When the period is over, the hotel has met its obligation under the contract and, if requested by the hotel, the guest must leave. If the guest fails to depart, the contract is breached and the guest becomes a trespasser. The hotel can then do one of two things: either assume that a new contract exists on a day-to-day basis obligating the guest to pay the cost of the room; or, if the hotel has made other commitments for the room, evict the guest.²

Intoxication and Disorderly Conduct

A hotel has the right to evict a person who is intoxicated and disturbing other guests. There must be a disturbance of the peace, disorderly conduct, threat to other guests, damage to the room, or the like. In circumstances where the intoxicated person threatens the well-being of other guests, a hotel may be negligent for failing to remove the disorderly person.³

A sober person engaged in disorderly conduct can likewise be evicted.

Contagiously Ill Guests

According to the Americans with Disabilities Act, a debilitating contagious disease may constitute a disability, which is defined as, "A physical or mental impairment that substantially limits one or more of the major life activities of such individual." The Act bars hotels and restaurants from withholding their services on the grounds of disability if a reasonable modification can be made to accommodate the disability. However, the Hotel can continue to exclude would-be guests with easily spread diseases because to accommodate them would expose many others to the illness, violating the Hotel's duty of reasonable care for guests' well-being.⁴

Breaking House Rules

Hotels are entitled to adopt reasonable rules to ensure order and safety on the premises. These rules, often called house rules, may, for example, include prohibitions against walking in the lobby in a wet bathing suit, wearing shorts in the lobby after 6:00 P.M., or having pets in guest rooms (other than seeing eye dogs or service animals). An innkeeper can evict a guest for failing to comply with a house rule. House rules should be posted in conspicuous places, including guest rooms. All rules concerning the use of a pool should be displayed poolside.⁵

Persons Not Registered

When a person is not or has never been a guest of the hotel, the innkeeper can evict that person without cause.⁶

Hotels contemplating the forcible eviction of guest or non-guest for any reason should proceed carefully so that they do not subject themselves to a potential claim of assault and battery.

2002 Legislation

As noted above, legislation enacted in 2002 will enable an innkeeper to remove a guest under the circumstances specified in the statute. Before an innkeeper may remove a guest, the innkeeper must notify the person that it is refusing to provide further services and that the person is to immediately leave the lodging establishment, and must refund any unused portion of an advance payment. If, after being requested to do so, the guest refuses to leave, the innkeeper may lock the guest's room, remove the guest's baggage and personal property, and may use reasonable force to eject the individual from the lodging establishment. Code, Business Regulation, § 15-203(b), effective October 1, 2002.

For further information and an analysis of this law, see Addendum #1, as well as a sample information page which must be available to all guests (Addendum #2).

¹ Cournoyer at 356.

² Id at 357.

³ Id. at 360.

⁴ Id.

⁵ Id. at 361.

⁶ Id.

ADDENDUM #1

MARYLAND HOTEL & LODGING ASSOCIATION

Analysis of SB 251 – Rights & Responsibilities of Innkeepers

The 2002 General Assembly enacted and Governor Glendening signed into law Senate Bill 251, which codifies a number of provisions regarding the rights of “innkeepers” in dealing with guests. These provisions become effective on October 1, 2002.

The bill created a new “Lodging Establishments” title in the Business Regulation Article of the Maryland Code, and a new subtitle “Rights and Responsibilities of Innkeepers.” “Innkeepers” is defined in the bill to mean the owner, operator, manager, or keeper of a “lodging establishment”, which also is defined in the bill as an inn, hotel, motel, or other establishment that has at least four lodging or sleeping rooms available for rent to transient guests.

Registration

Innkeepers may require a guest to demonstrate ability to pay, in the absence of which they are entitled to refuse service.

At registration, an innkeeper may require a guest to register and to produce one of the following forms of identification:

- a valid driver's license
- a valid military identification card;
- a valid passport; or
- any valid government issued identification card.

Right to Refuse Service or Remove Guests

One major section of the new law sets forth the rights that an innkeeper has to deny service or to remove guests in certain specified situations. This section gives the innkeeper a clear ground for evicting guests and spells out what steps the innkeeper can take in doing so.

Guests, which includes any individual or any business entity, can be removed for any of the following:

1. Inability or refusal to pay for lodging or services.
2. Creating a “public nuisance” on the premises under the influence of alcohol, drugs, or any other intoxicating substance.
3. Creating a “public nuisance” on the premises, even if not under the influence of alcohol, drugs, etc.

The idea of a “public nuisance” is not a term clearly defined in Maryland law. However, the general idea is clear: “an interference with the common right of the general public or an indefinite number of persons; an unreasonable interference with the health, safety, peace, or comfort of the community.”¹

¹ <http://www.techlawjournal.com/glossary/legal/nuisance.htm>

For the purposes of dealing with guests who are drunk or drugged, the issue is whether the individual is disturbing anyone else. If a guest returns to the hotel and is obviously drunk (slurred speech, unsteady on his or her feet), but is not annoying anyone else, the new law does not allow the innkeeper to eject the guest simply for being drunk. However, if the individual is loud, offensive, stumbling into tables, falling down, argumentative or abusive to other guests or to hotel employees, then the new law allows the innkeeper to eject the individual.

Ultimately it is a matter of good judgment whether a guest is creating a public nuisance. As shorthand, consider whether the individual's actions are offensive to a number of other guests and denying them the enjoyment of being on the property. If it's clear that the individual is behaving in a manner that violates common sense norms of appropriate behavior, is annoying other patrons, and refuses to stop the offensive conduct when asked, then it's likely that the individual is creating a public nuisance and can be removed.

4. Destroying, damaging, or defacing property of the lodging establishment or its guests, or threatening to do so.
5. The innkeeper reasonably believes the guest is using the lodging establishment for the use or possession of illegal drugs or for the consumption of alcohol by someone under age 21.
6. The innkeeper reasonably believes the guest possesses items that may be dangerous to others, including firearms or explosives.

The issue here is "reasonable belief." The standard is not as high as probable cause, nor is it mere suspicion. The innkeeper must be able to point to some objective fact that a reasonable person would conclude indicated the individual was using or possessing the illegal drugs or alcohol.

Many properties have run classes for their employees on the problem of illegal drugs; many full service establishments have employees trained to identify underage drinkers. Dangerous items present a different situation, especially after the terrorist attacks of September 11. Hotel security personnel may have received training that will be helpful in identifying potentially dangerous materials and situations. Properties that routinely entertain hunters have to set their own parameters regarding firearm safety.

When in doubt, report suspicious behavior to the police and let them handle the situation.

7. Refusing to obey any conspicuously posted rule or policy.

This is a very important part of the new law. The innkeeper can adopt any rule that is necessary or appropriate to maintaining good order and ensuring the comfort of guests. Rules can address problem situations that have occurred in the past. For example, a property could adopt a rule to deal with the problem of guests who stay over beyond the term of the stay they indicated on their reservation or on the front desk check in form.

The rule or policy must be posted "conspicuously." See the requirements below under "Posting."

Removing Guests

If a guest violates any of the provisions set forth above, including rules set by the lodging establishment, the innkeeper may remove the guest, provided that he (1) gives the guest oral or written notice that the property is terminating any further services to the guest, and (2) returns any unearned advance payment. The property may retain a full day's lodging fees for any portion of a day that the guest is in residence.

If the guest refuses to leave after being advised by the innkeeper to do so, the innkeeper may:

1. If the individual is a guest, lock the door of the individual's room;
2. remove the individual's baggage and other personal property; and
3. using no more force than necessary, eject the individual from the lodging establishment.

As a practical matter, forcible removal should be avoided and the police should be called to deal with the matter.

Special Rules Dealing With Minors (under age 18)

For an individual who is under the age of 18 years, an innkeeper may require a parent or guardian to:

- accept liability for the charges for the minor's lodging and any damages to the lodging caused by the individual; and
- provide a valid credit card or make an advance cash damage deposit of not more than \$500 to cover any charges incurred or damages caused by the individual.

If an innkeeper requires an advance deposit, then, at checkout, the innkeeper must refund any portion of the deposit not needed to cover "reasonable" charges for damages. The innkeeper should make a room inspection to determine if there are any damages in order to determine what amount, if any, to withhold.

Posting Notice

The statute requires an innkeeper to post a copy of the statute itself, together with all rules of the lodging establishment, in a conspicuous place at or near the guest registration desk and in each guest room.

MH&LA has developed an appropriate notice, including model rules, for use by MH&LA members at their discretion—see Addendum #2.

ADDENDUM #2

MARYLAND HOTEL & LODGING ASSOCIATION

Posting Notice for SB 251 – Rights & Responsibilities of Innkeepers

As noted in Addendum #1, the statute requires an innkeeper to post a copy of the statute itself, together with all rules of the lodging establishment, in a conspicuous place at or near the guest registration desk and in each guest room.

MH&LA has developed an appropriate notice, including model rules, for use by MH&LA members at their discretion.

See Sample Notice on the following page.

Subtitle 1. Hotel Liability for Valuables

15-101

In this subtitle, "valuable" means money, jewelry, securities, or plate.

15-102

Except for § 15-105 of this subtitle, this subtitle applies only to those hotels that display in each guest room a notice of the provisions of this subtitle.

15-103

(a) A hotel is not liable for the loss, by robbery or otherwise, of a valuable belonging to a guest if:

- (1) the hotel provides a safe or other secure depository for keeping valuables of guests;
- (2) the guest does not deposit the valuable with the hotel for safekeeping; and
- (3) the loss does not result from the collusion or negligence of the hotel or its agent.

(b)(1) A hotel is not liable for more than \$300 for the loss of valuables that a guest deposits with the hotel for safekeeping unless, at the time of deposit, the guest shows the valuables to an agent of the hotel and declares a greater value to the agent.

(2) A hotel need not accept for safekeeping valuables with a declared value of more than \$1,000.

(c) A hotel is not liable for more than \$1,000 for the loss of or damage to valuables belonging to a guest, whether or not the valuables were offered to or accepted by the hotel for safekeeping.

15-104

A hotel is not liable for more than \$300 for the loss of property other than valuables of a registered guest from the room of the registered guest.

15-106 A hotel is not liable for more than \$300 for the loss of property that a guest leaves with an agent or employee of the hotel at a baggage room or other similar storage area.

15-107

A hotel is not liable for the loss of property of a guest or other person as a result of a fire that is proved to have occurred without the negligence of the hotel or its agents or employees.

Subtitle 2. Rights and Responsibilities of Innkeepers

15-201

(a) In this subtitle the following words have the meanings indicated.

(b) "Innkeeper" means the owner, operator, manager, or keeper of a lodging establishment, or the agent of an owner, operator, manager, or keeper of a lodging establishment.

(c) "Lodging establishment" means an inn, hotel, motel, or other establishment that has at least four rooms available for a fee to transient guests for lodging or sleeping purposes.

15-202

Except as provided in this subtitle for an individual who is under the age of years, this subtitle may not be construed to alter the prohibition against discrimination by an innkeeper or lodging establishment established under article 49b, § 5 of the code.

15-203

(a) An innkeeper may refuse to provide lodging or services to or may remove from a lodging establishment an individual who:

- (1) refuses to pay or is unable to pay for lodging or services;
- (2) while on the premises of the lodging establishment is under the influence of alcohol, drugs, or other intoxicating substance so as to create a public nuisance;
- (3) while on the premises is disorderly so as to create a public nuisance;
- (4) destroys, damages, or defaces property of the lodging establishment or its guests, or threatens to do so;
- (5) the innkeeper reasonably believes is using the lodging establishment for the unlawful possession or use of a controlled dangerous substance in violation of Title 5 of the Criminal Law Article or for the consumption of alcohol by an individual under the age of 21 years in violation of Article 2B, § 12-108 of the Code;
- (6) the innkeeper reasonably believes possesses property that may be dangerous to other individuals, such as firearms or explosives; or
- (7) refuses to abide by any conspicuously posted rule or policy of the lodging establishment.

(b)(1) If an innkeeper seeks to remove an individual from a lodging establishment as provided under this section, the innkeeper shall:

- (i) notify the individual, either orally or in writing, that the lodging establishment refuses to provide further lodging or services to the individual and that the individual should immediately leave the lodging establishment; and
- (ii) if the individual has paid for lodging or services in advance, refund any unused portion of the advance payment, but the lodging establishment may withhold payment for a full day's lodging if the individual was lodged for a portion of a day.

(2) If an individual attempts to remain in a lodging establishment after having been requested to leave under the provisions of this section, an innkeeper may:

- (i) if the individual is a guest, lock the door of the individual's room;
- (ii) remove the individual's baggage and other personal property; and
- (iii) using no more force than necessary, eject the individual from the lodging establishment.

15-204

(a) An innkeeper may require a prospective guest to demonstrate an ability to pay by cash or valid credit card.

(b) An innkeeper may require each guest at a lodging establishment to register and may require the guest to produce:

- (1) a valid driver's license;
- (2) a valid military identification card;
- (3) a valid passport; or
- (4) any valid government issued identification card.

(c) An innkeeper may limit the number of individuals who may occupy a particular guest room in a lodging establishment.

15-205

(a) For an individual who is under the age of 18 years, an innkeeper may require a parent or guardian of the individual to:

- (1) accept liability for the charges for the individual's lodging and any damages to the lodging establishment caused by the individual; and
- (2) provide a valid credit card or make an advance cash damage deposit of not more than \$500 to cover any charges incurred or damages caused by the individual.

(b) If an innkeeper requires an advance deposit under subsection (a) of this section, the innkeeper shall, following a room inspection at the time of checkout, refund any amount of the deposit not needed to cover reasonable charges for damages.

15-206

An innkeeper shall post a copy of this subtitle, together with all rules of the lodging establishment, in a conspicuous place at or near the guest registration desk and in each guest room.