

# OSHA Standards for Restaurant Lawsuits: It's More Than Just a Poster.

OSHA guidelines, standards and safety rules apply to nearly every restaurant industry legal matter and it is a whole lot more than the little bit of text on the OSHA wall poster. Your case will more likely than not depend on the standards applied and whether or not you know the standards and how best to apply them to your legal matter as it pertains specifically to restaurants.

The reasonable and customary restaurant industry standard is to provide every employee at every level and every pay scale with continual and ongoing safety, health, and security training from the time they begin employment until the last moment of employment before termination.

## Restaurant Safety, Health, and Security Training

To be within industry standard and regulatory compliance, continual and ongoing training in the restaurant industry traditionally includes a combination of written, verbal, hands-on, and video training. This training should be in direct alignment with the reasonable and customary written policies, procedures, and practices of the restaurant industry; the reasonable and customary written policies, procedures, and practices of the specific organization; and the reasonable and customary written policies, procedures, and practices of the specific restaurant establishment (or group of restaurants).

Many OSHA standards specifically require the employer to train workers in the safety and health aspects of their jobs:

1926.21(a): General requirements. The Secretary (of OSHA) shall, pursuant to section 107(f) of the Act, establish and supervise programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe conditions in employments covered by the act.

1926.21(b): Employer responsibility.

1926.21(b)(1): The employer should avail himself of the safety and health training programs the Secretary provides.

1926.21(b)(2): The employer shall instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment to control or eliminate any hazards or other exposure to illness or injury.

According to OSHA, “training is an essential component of an effective safety and health program. Training helps identify the safety and health responsibilities of both management and employees at the site. Training is often most effective when incorporated into other education or performance requirements and job practices. The complexity of training depends on the size and

complexity of the worksite, as well as the characteristics of the hazards and potential hazards at the site.”<sup>36</sup>

Restaurant operations are highly complex, and the hazards and potential hazards that may exist are many and varied. Training is one of the best methods in helping employees perform their job in a safe manner and in as safe a workplace as possible. It is an investment that will pay off in many ways, such as fewer injuries and illnesses, better employee morale, lower insurance premiums, and/or reduced risks for employees, customers, and vendors alike.

## **If Employees Don't Speak Your Language, They Don't Understand You**

First and foremost, OSHA standards require that employees receive training so work can be performed in a safe and healthful manner; and it is required that this training is provided in a manner, a language, and a vocabulary that is understandable to each and every employee. In other words, information must be presented in such a way that the employees receiving it are capable of also understanding it. (For further clarification, see 15: Training in a Language the Employees Understand is a Requirement).

## **OSHA Considers Safety and Health Training Vital to Every Workplace**

The content of a restaurant company's training program and the methods used in presenting it should not only be in direct alignment with industry standards, but should also reflect the needs and characteristics of each particular restaurant establishment and workforce. OSHA provides five principles of teaching and learning to maximize program effectiveness:

- 1) Trainees should understand the purpose of the training.
- 2) Information should be organized to maximize effectiveness.
- 3) People learn best when they can immediately practice and apply newly acquired knowledge and skills.
- 4) As trainees practice, they should get feedback.
- 5) People learn in different ways, so effective programs incorporate a variety of training methods.

## **Safety Training Doesn't Have to Be Boring**

Whenever possible, try to make OSHA, *Restaurant OSHA Safety and Security*, and safety, health, and security training more than just informational. It must and should be educational, but it is important that you try to make it fun, interesting, and engaging as well. In doing this, it helps make the trainer more interested in presenting the material and the trainees more likely to retain the information presented to them and apply the information (methods and processes) properly if and when it is necessary for them to do so. Not to mention that this will also help prevent frustration from forming that is often experienced (by both the trainer and the

trainees) when loads of information is spewed forth upon them in an antiseptic, long, boring, lecture-style manner— we've all been there, done that.

## **Who Needs *Restaurant OSHA Safety and Security Training*?**

Not only should all employees be trained, but they have a right to be trained. No one is exempt from training—even trainers, owners, and executives need training from time to time to refresh their memories or learn a new system or process. Every training plan must include managers, supervisors, owners, and executives; and it is important that they set a good example and support the overall safety, health, and security training program from top to bottom.

Training should especially target new employees; they will not only need to be trained in how to do their respective jobs, but also in how to recognize, understand, and avoid potential hazards to themselves, customers, vendors, and all others in their workplace. However, experienced workers also need (and must receive) additional training and refresher courses as well—especially when a new process or piece of equipment is introduced into the workplace. It is critically important to keep those who have been employed for long periods of time from becoming disengaged from your restaurant establishment's mission to create and maintain an overall strong culture of safety. Providing safety, health, and security training (on a daily, weekly, monthly, quarterly, and yearly basis) that reflects a variety of change, tone, cadence, and flavors throughout the various presentations can be quite helpful in this regard.

All employees who wear personal protective equipment (PPE), those who work with hazardous or potentially hazardous chemicals or equipment, as well as those who work in high-risk areas need to be specially trained in order to understand the possible hazards to which they may be exposed or the hazards to which they could be exposing others. They must be able to identify these hazards; know how to protect themselves, their coworkers, their customers, and vendors; and they must know what to do in the event of an emergency situation. (To learn more, please see 43: Personal Protection Equipment (PPE).)

## **Safety Training Managers and Supervisors**

It is vital that restaurant managers and supervisors understand the critical role that they personally and collectively play in providing continuing support and understanding of the restaurant's safety, health, and security policies, procedures, practices, training, and overall plan and culture. Management at every level of the restaurant or organization is responsible for communicating the safety, health, and security goals and objectives to the restaurant employees and assigning to each of them their roles and responsibilities to protect themselves, the restaurant, the customers, their coworkers, and others.

It is imperative that restaurant managers, at every management level within the establishment and the organization, understand how to detect hazards and potential hazards in the workplace; conduct thorough and proper accident investigations; and handle themselves in the event of an emergency. They must know who to call and when to call them as it pertains to each different type of incident or what-if scenario that may possibly occur; and they must fully understand how protective equipment is used for each job role and responsibility within the restaurant establishment or group of restaurants.

## **Keep Written Training Records**

It is important to keep a record of all safety, health, and security training for every employee and the establishment as a whole. Be sure to keep track of employee (and

management) attendance during all training and at all meetings that pertain to safety, health, and security. Documentation of training will help provide answers to investigations regarding any incidents or accidents that may occur where someone is injured, harmed, sickened, maimed, or killed on the premises and during your watch.

## **Performance Evaluations**

It is not enough to train, and then just walk away. The reasonable and customary industry standard is for periodic performance evaluations to be conducted to help determine whether or not the training that you and the other members of the management team have provided has been truly understood and implemented by your employees—individually and collectively—and whether the training is helping to achieve your individual restaurant's (or group of restaurants') safety, health, and security goals and objectives.

Once you have provided training, do not hesitate to test your employees by asking them to explain their job tasks, any potential hazards, and the protective measures they have been provided with and asked to incorporate. Don't be afraid to do written and oral quizzes and tests on the policies, procedures, standards, and systems as well. Encourage participants to provide feedback not only to your training methods, but also to provide any ideas and suggestions they have that could make their jobs and the restaurant safer, healthier, and more secure.

Compare results by keeping track of pre- and post-training injury and accident rates, near-misses, and behaviors as they pertain to safety, health, and security by all employees. Remember that positive feedback given to employees for safe, healthy, and secure work practices and behaviors is a very powerful tool. It helps workers establish new safety patterns and provides positive reinforcement for the desired behavior you want them to continue to incorporate into their day-to-day job duties and responsibilities.

Without exception, training is an essential part of protecting workers, customers, and vendors from injuries and illnesses. It must be provided to all employees—including management, supervisors, owners, and executives (no one gets a free pass)—and should be enforced, reiterated, and evaluated throughout their entire employment history.

If you have a restaurant or bar industry legal matter of any kind and want to know just how industry standards and OSHA standards apply to your case give us a call at 800.300.5764 or find us online, [www.RestaurantExpertWitness.com](http://www.RestaurantExpertWitness.com).

Until next time. Kindest Regards and God Bless.

Howard Cannon—is the world's most sought-after forensic Restaurant Expert Witness, with 200+ cases and several hundred pre-litigation consulting matters to his credit. He is called on by judges, juries, plaintiffs and defense lawyers, members of the media, and industry executives to provide his unbiased opinions pertaining to an astonishing variety of incidents where employees, customers, and vendors become injured, harmed, sickened, maimed, or killed on the premises of restaurants and bars across the United States. To contact Restaurant Expert Witness – Howard Cannon, call 800.300.5764 or visit our website at [www.RestaurantExpertWitness.com](http://www.RestaurantExpertWitness.com)

36 United States Department of Labor, Occupational Safety and Health Administration, [osha.gov](http://osha.gov), "OSHA 1926 Subpart C—Safety and Health Program Management Guidelines" (Rev. 1989), [www.osha.gov/Publications/Const\\_Res\\_Man/1926\\_C\\_SH\\_guide.html](http://www.osha.gov/Publications/Const_Res_Man/1926_C_SH_guide.html), Web. (3/2016).