

New year, new rules

What hoteliers need to know for 2024

By Chirag Shah

Hoteliers in 2024 are facing the prospect of three new federal rules that could dramatically impact our industry.

The American Hotel & Lodging Association is working to mitigate or overturn these rules. But hoteliers should be taking steps now to prepare for possible changes, which could raise labor costs, make it harder to hire independent contractors, and make franchisors liable for labor issues at franchisee locations.

Here's what hoteliers need to know:

Joint-employer Rule

In October 2023, the National Labor Relations Board (NLRB) released a final rule that changes the standard the federal government uses to determine when two or more employers are jointly responsible for a shared group of workers' terms and conditions of employment. The rule makes it easier for the NLRB to declare joint employment status in business relationships, and it will enable unions to organize by company rather than property by property.

This rule will have major implications for the franchise business model and your vendor relationships.

For decades, a company was only seen as a joint employer if it maintained "substantial direct and immediate control" over workers' terms and conditions of employment. Under the new NLRB rule, however, a company could be seen as a joint employer even if it has indirect or unexercised control over workers, a subjective definition that will open the door to treating franchisors as joint employers.

In our view, this rule change is aimed at forcing franchisors to the negotiating table with workers in a bid to increase unionization. It will also complicate relationships between hotel owners, brands and employees, and limit opportunities for franchisees and workers along the way.

AHLA has joined the U.S. Chamber of Commerce and other business groups in a lawsuit seeking to overturn the new rule, and as of this writing, that case is still pending. In the meantime, AHLA is encouraging hoteliers to review their franchise contracts and consult with an attorney, in the event that the rule takes effect as scheduled Feb. 26.

[Click here](#) to view AHLA's resources on the joint-employer rule.

Overtime Rule

In August 2023, the Department of Labor issued a proposed rule that would raise the overtime salary exemption threshold for certain employees under the Fair Labor Standards Act.

Under the proposed rule, hotel employees would qualify for overtime if they make up to an estimated \$60,000 in 2024, a nearly 70% increase from the roughly \$35,000 threshold in place today. The rule also calls for automatic increases to that threshold every three years.

Small business owners continue to grapple with the rising costs of running their business in light of the nationwide workforce shortage and persistent inflation. The Department of Labor's overtime rule would result in crushing increases in hoteliers' labor costs. Even worse, it would make it more difficult for hotel employees to rise in the ranks, as hotels would have no choice but to cut back on middle-management positions that are career stepping-stones for thousands of employees.

AHLA has filed comments with the Labor Department in opposition to this rule, but hoteliers should begin thinking about compliance, should the rule take effect.

[Click here](#) to view AHLA's resources on the overtime rule.

Independent Contractor Rule

In January 2024, the Department of Labor released a final rule that will change the way workers are classified as independent contractors or employees. The change, set to take effect on March 11, will make it much harder for workers to qualify as independent contractors.

The rule will set up a subjective, six-factor test for determining worker status, and create an undefined set of "additional factors" that might also be considered. This is a significant departure from the current test that relies on two core factors and has created a predictable system that allows workers to choose the style of work that suits them best.

The new standard will invite confusion and unpredictability in the workplace, since worker status will largely depend on who is conducting the test and what factors they view as important. We believe it will ultimately force millions of independent contractors to give up that status and become company employees. This will limit opportunities for people to work as independent contractors and hurt hotels' ability to maintain operations.

AHLA is considering a range of potential next steps against this rule, including possible litigation. In the meantime, however, hoteliers should review their use of independent contractors and consult with an attorney in case the rule goes into effect as scheduled.

[Click here](#) to view AHLA's resources on the independent contractor rule.

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