Promoting awareness of legal requirements and liabilities in food and beverage operations

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Abstract

The purpose of this article is to shed more light on the importance of promoting greater awareness of legal requirements and liabilities of food and beverage operations (F&B) operations. It is a descriptive analysis which highlights aspects related to food hygiene. Managing legal issues in the hospitality industry, especially in F&B, is a tricky business. The magnitude of the global tourism industry means that the laws governing it are exhaustive and at the best of times, highly complex. Since tourists need to eat and drink it is imperative that industry employees have a meaningful grasp on what is expected legally speaking. Tourists spend large amounts of money on food and beverages and this is second only to airfare to and from destinations. Creating awareness of legal requirements and liabilities in food and beverage operations among industry employees is essential. As very little has been written on consumer rights and industry obligations in the South African hospitality industry food and beverage context, it is hope that this article will create greater awareness of a critically important aspect in the hospitality industry.

Definitions of terms used:

(a)"Food hygiene": means the measures and conditions necessary to control hazards and ensure fitness for human consumption of a foodstuff taking into account its intended use;
(b) "Competent authorities" means the local authority responsible for the purposes and controls of foodstuff production.
(c) "Certification" means the procedure by which the competent authorities provide
written assurance of conformity to health and safety requirements;
(d) "Contamination" means the presence of a substance not intentionally added to
foodstuffs or present in the food environment, which may compromise the safety or
fitness for human consumption of the foodstuffs which are purchased or manufactured.

Introduction

Food and beverage is an aspect of hotel operations and stand alone restaurants which offers management an opportunity to differentiate its offerings. The quality of cuisine, service delivery and dining area design in restaurants and bars is very important as these aspects provide very significant revenues for the tourism industry which in many cases surpasses room revenues. Managing such operations require adherence to a number of important health and safety conditions. South African hospitality industry operations are required to obtain certification in the form of a licence in terms of the Businesses Act, 1991, before they sell or supply foodstuffs in any form of meal (Act 71 of 1991), this is to maintain food hygiene. The competent authority or licensing authority is in most cases the local authority that has legal jurisdiction in a particular geographic area. A licence cannot be granted unless the business premises in which foodstuffs are prepared complies with all the requisite legal aspects which relate directly to health and safety issues as well as town planning. Furthermore, all other aspects relating to public health must be considered and attended to.

These may include equipment used for production of foodstuffs, apparatus, working surface areas, space for storage, conveyance equipment, cold storage, staff uniforms and other relevant considerations. No establishment may sell or provide foodstuff in the form of meals unless a licence has been obtained. Fines and imprisonment may result if legal aspects are not dealt with. Consequently, awareness of legal requirements in all food and beverage operations is non-negotiable. Annoyed consumers and a food industry facing negative publicity and the possibility of lawsuits, should stir food and beverage operators to take all possible steps to minimize possible problems by training staff adequately in all aspects of food production. Whatever laws are in place are clearly intended to make the production of foodstuffs safer so that potential problems can be prevented and consumers not harmed. Food and Beverage Managers of businesses must thus create work rules and establish effective procedures for their employees to adhere to. Of course, by exercising control it is a given that there is some or other form of human involvement. F&B staff can either take some form of action or prevent others from taking an action in order to achieve satisfactory outcomes in the kitchens and other work areas. It is important that all customer complaints are dealt with efficiently and that the customer is provided with excellent feedback after a poor food hygiene incident (Bell & Luddington, 2006). In the F&B industry, control then implies controlling especially employees rather than items used in food preparation so that no contamination occurs. Food cannot be, for example, consumed by rodents unless employees have made that food accessible by not observing necessary health and safety regulations. An investigation on research conducted into restaurants in hotels demonstrates that researchers tend to focus on a wide range of entities in the dining experience. Health and safety and food production and production quality are the most important (Norton, 2002; Susskind, 2002). Etzel (2004) argues that business markets consist of individuals and organizations that buy goods and services including foodstuffs. When customers order food in a restaurant they are buying both goods and expect their order to be free of any health risk. Hospitality law cannot and must not be taken lightly. F&B employees are obliged to safeguard the safety and well-being of their customers. Managing the legal issues in the hospitality industry is thus a huge responsibility. A F&B operation that does not adhere to the laws and which fails to provide a safe environment for its customers is doomed to fail.

Customers participate in the service process of every F&B operation they visit (Kandampully, 1997; Parasuraman, Zeithaml & Berry, 1991). Many factors influence the satisfaction levels of guests, both tangible and intangible. Kandampully & Butler (2001) have shown that an important factor is the quality of the service provided. This is always intangible and cannot be revisited. The layout, decor, appearance and amenities of the restaurant are all tangible elements in the dining experience. Banotai (2003), has shown that guests in restaurants tend to link the appearance of an establishment to any potential concerns about food safety. Consequently when they visit a restaurant and see a dirty toilet that become concerned about how the kitchen looks. All restaurants want guests to become repeat customers (Mujtaba & Johnson, 2004) and must thus look after their interests in terms of health issues.

Managerial responsibility and control

An employer or management must know what their obligations are in respect to the law. Being in a management position managing legal issues in the hospitality industry is an encumbrance that an F&B manager will constantly have to bear. What is of the utmost importance is that the actions, statements, and attitudes of F&B managers, their actions, directions, and responses to employees ' questions always present a clear and consistent view to all employees under their control. Where there is

inconsistency in managerial utterances and actions, this confuses employees and generally subverts the control processes and procedures that employees are expected to adhere to. Therefore F&B managers should ensure that employees comprise knowledge and appropriate skills which demonstrate their competence in the hospitality environment (Burgess, 2011).

Management thus has a duty to establish objectives on legal issues in food production that are in line with its primary aims. These should be specific and immediate in nature. For example, to achieve the goal of operating a top-notch Cordon Bleu restaurant, it should be an objective to recruit an excellent executive chef. Attention must focus on the methods and procedures used by managers to direct, regulate, and control the actions of employees, both directly and indirectly, so to minimise costs and increase profit margins while providing customers with service quality excellence.

As food safety is the result of a wide range of factors including respect of all mandatory requirements, the implementation of food safety programmes and HACCP is essential. The HACCP (Hazard Analysis Critical Control Point) system is a tool to be implemented by food business operators in order to control microbiological and chemical hazards in food and thus to promote food safety. HACCP involves a systematic and comprehensive evaluation of a specific food processing or preparation procedures so as to identify hazards associated with ingredients or the processing procedure itself. It finds out how any potential or real hazards can be controlled and then decides which steps in the process are essential to controlling hazards so that greater and specific attention can be focused on them. HACCP is in many instances now replacing traditional food production regulatory approaches. HACCP as a food safety management system enables the food processing and catering industry to maintain a cost effective, ongoing safety programme (SABS, 2005).

Food must be free of environmental and other sources of contaminants and sources of toxicity whether they be biological, physical or chemical which may be injurious to the health of consumers (Commission of the European Communities, 2003). The main reasons why food safety is important is that good food hygiene can prevent food consumers from becoming infected with various food-borne diseases. Proper food hygiene design and practice can protect both the consumer and business from possible prosecution. Good standards of food safety can enhance and protect the reputation of the business which can result in return business (SABS, 2005). Internationally HACCP has become the recognised food managing safety system, and its use has been extended to control the full range of biological, chemical and physical hazards (Taylor, 2008).

F&B Managers must control what their employees do, and this is the process by which the managers strive to direct, regulate, and restrain the actions of employees so as to achieve desired goals. Therefore the establishment of guides to good practice by the F&B managers in order to give guidance to employees on food safety and the implementation of HACCP is vital. Any guides to good practice drawn up by the F&B manager can be used by employees as a guideline to assist in ensuring a high level of food hygiene. Management needs to carry out formal controls at all stages of production, manufacture and placing of foodstuffs on the market; They also need to establish microbiological criteria and temperature control requirements based on a scientific assessment of risk which must be undertaken by experts in this field. The main need is to ensure that imported foodstuffs used in kitchens are of at least the same or an equivalent health standard to those accepted by the SABS (South African Bureau of Standards). Food control systems depend on food related legislation and the satisfactory enforcement of these laws. The purpose of food control systems have been identified as the need to provide consumer

protection by ensuring that all food and food products produced during the handling, storage and distribution phases are safe for human consumption, therefore ensuring public health goals (Chanda, Fincham & Venter, 2010).

The F&B manager should control the food production process and could adopt the following methodology:

1. Establish standards and standard procedures for operation in all kitchens and related areas of operation.
2. Train all employees to observe established standards and standard operating procedures.
3. Monitor individual employee performance and compare actual performances with accepted and established standards that are in line with legal and health and safety requirements.
4. Take suitable action to correct any deviations from acceptable standards and this may include disciplining of employees who contravene the required operating procedures.

It may happen that an investigation reveals that an established operating standard is in fact unrealistic or inappropriate. In this instance, then management should consider changing the operating standard. The restaurant manager must monitor operations on an ongoing basis, and monitor all activities in the operation to see personally that all goods purchased meet the standards set. Trying to delight customers will undoubtedly go a long way in encouraging return business and thus also give an operation a greater market share, despite research showing that there is a weak correlation between satisfaction scores and customer loyalty (Van Looy, Gemmel & Dierdonck, 2003). Where a manager finds that the quality of any item purchased deviates from the standards, appropriate remedial action must be taken failing which a problem may arise, especially where consumers become ill. O'Mahony and Hall (2007) have noted that scant research has been carried out into the factors that influence food choice or related food- consumption behaviours of

consumers. Such research could undoubtedly assist F&B Operations as producers of food would have a better understanding of what to look out for in health and safety issues. If a restaurant is to be successful, the F&B manager needs to meet the needs of consumers, which are greatly influenced by the motives and preferences behind their ordering decisions (Teare, Bowen & Hin1998). Once a customer has a bad experience, especially due to food that is off that causes illness, then that customer is lost forever and the negative word-of-mouth publicity that arises may be devastating for the business concerned.

Responsibility then for each and every aspect of any food and beverage enterprise rests with management. Marketing of the restaurant for one is vital for success and good service leads to word-of-mouth free marketing (Kivela, 1997). Control is clearly a responsibility of the F&B manager who must take personal charge of directing and supervising the control procedures in every stage of operations relating to food production. In large operations the F&B manager can delegate some or all of the work of controlling food production to the subordinates. The nature, size, and scope of the operation will determine any delegation of duties.

Multi-cultural workforce supervision

When supervising a multi-cultural work force in a restaurant, there are many challenges as well as opportunities for the F&B manager. It is unfortunate that many managers do not know how to manage employees who emanate from a different ethnic or cultural group. There must be respect for differences between people and teamwork in the operation. Diversity is the differences in people, how they react in certain situations because of their background, personalities, style, individual perspective and personal values and beliefs. Diversity is all about the way we relate to one another, about inter personal relationships and interaction. Diversity is not culture (Smit, Cronje, Brewis & Vrba, 2007). However differences between the

various cultural groups do exist which filters through in the workplace and this can lead to problems. Diversity strategies should be linked to specific objectives such as morale, performance and the goals and objectives of the specific food industry. It is important to understand that cultural differences exist in the workplace. By admitting that personal stereotypes and assumptions about specific cultures do exist, one can develop awareness and acceptance of your own as well as other cultural backgrounds and styles (Smit *et al.* 2007). An open mind should be kept of peoples' different ways of working, how they handle certain situations and their actions and responses. The individuality of employees should be respected and employees should be treated with dignity. The most important tool in breaking down the cultural barriers between people is communication. Managers should learn about their subordinates specific culture and differences and encourage positive communication (du Pont, 1997). One should be alert in particular for the non-verbal language of those whose cultural background is different from your own. Diversity management benefits all employees by creating a fair and safe working environment where everyone has access to opportunities and challenges. A diverse workforce is a reflection of an ever changing working environment.

When there is racial stereotyping, insensitivity to cultural differences and the lack of effective communication, it is more likely that food hygiene may be compromised. It is critical in such an environment that the manager undergoes training to become a more effective multi-cultural F&B manager. It would also be useful for employees to undergo such training which can also include food hygiene training. Failure to address potential problem areas may plague a workplace and result in low productivity, conflict and ultimately the provision of sub-standard foodstuffs to customers (Jones & Pizam, 1993). In a restaurant, the customers demand satisfaction with the entirety of the dining experience. In a nutshell, they expect total synergy in all aspects of the dining experience from when the cuisine is ordered and then served. It is expected that food hygiene has been observed and that food is not in any way contaminated. Consequently, the employees should be trained to offer what is expected. Food and beverage laws and liability issues and HACCP controls must be dealt with in great detail before an employees is hired, whether they be a fulltime or part-time employee.

Establishing required standards and procedures

Standards' refers to a wide range of rules and measures which are established by management for making comparisons and judgments. The assist managers to judge the extent to which expected results are meeting expectations. All employees must have a working understanding of the expected standards.

While setting standards for quality, quantity, and cost, are important aspects, managers must also establish standard operating procedures which are the methods employed to prepare products or carry out work. Employees must work according to methods that are in line with food hygiene and which are routine for day - to - day operations. Clearly, all storage of food practices must be adhered to so as to safeguard against contamination and spoilage when raw material is issued this must be standardized and all food and beverage items must be used in the order in which they are received. This will prevent spoilage and resulting excessive costs. Standard production procedures can be accomplished through using standarized recipes which may be altered from time-to-time when required.

Most basic operational food hygiene requirements

Johnson and Weinstein (2004) maintain that customers seek value for money and this includes being served hygienic food.

Customers also seek a guarantee that what they purchase to eat will not make them ill (Kandampully & Butler, 2001). There are a wide range of important aspects to consider and adopt in food hygiene practice. A few are highlighted in what follows.

All food premises must be kept clean and maintained in good repair and condition-this is the most basic requirement. This means that the design of such venues must allow adequate maintenance, cleaning and/or disinfection (Foster, 1992). There must be adequate working space to allow for the hygienic performance of all food and beverage operations. Design should be such as to protect against the accumulation of dirt or any contact with toxic materials, corrosion or pests. Suitable facilities must be provided for the cleaning and disinfecting of working utensils and equipment and these must be resistant to corrosion and must be easily cleanable. An adequate supply of hot and cold water must be available. Personal hygiene measures must be enforced (including facilities for the hygienic washing and drying of hands, hygienic sanitary arrangements and changing facilities). All production surfaces must be corrosion resistant, smooth, and washable and made of non-toxic materials. Cleaning must be undertaken twice or more time daily working utensils and equipment must be disinfected. There must also be adequate arrangements and/or facilities for the hygienic storage and disposal of hazardous and/or inedible substances and waste (whether liquid or solid). Facilities and/or arrangements for maintaining and monitoring suitable food temperature conditions must be available and foodstuffs must be so placed as to avoid the risk of contamination so far as is reasonably practicable.

No raw materials or ingredients should be accepted by any food business if they are known to be, or might possibly be, contaminated with parasites, pathogenic micro-organisms or toxic, decomposed or foreign substances that, after normal sorting and/or preparatory or processing procedures hygienically applied by food businesses, they would still be unfit for human consumption. In addition, raw materials and all ingredients stored in a food business should be kept in appropriate conditions which are designed to prevent harmful deterioration and protect them from possible contamination. Foods which are handled, stored, packaged, displayed and transported must be protected against any contamination which is likely to render the food unfit for human consumption. All raw materials, any ingredients, intermediate products and cooked meals that are likely to support the development of pathogenic micro-organisms or the formation of toxins must be kept at temperatures which will not result in a health risk Any processed foodstuffs must have suitable rooms large enough for the separate storage of raw materials from processed material, with sufficient separate refrigerated storage to prevent contamination. Where foodstuffs are to be held or served at chilled temperatures they must be cooled as quickly as possible following the heat-processing stage.

Any thawing of foodstuffs shall be undertaken in such a way as to minimise the risk of development of pathogenic micro-organisms or the formation of toxins in the foods. During thawing foods must be subjected to temperatures which would not result in a risk to health. Where run-off liquid from the thawing process may present a risk to health it must be adequately drained. Following thawing, food must be handled in such a manner as to minimise the risk of development of pathogenic micro-organisms or the formation of toxins. Hazardous or inedible substances, including animal feedstuffs, should always be adequately labelled and stored in separate and secure containers.

Hospitality Law and the Public

The main reason why health and hygiene legislation has been compiled is to regulate the food producing industry regarding the handling, transportation, storage and sale of unpacked food and

food ítems to the general South African public. The main objectives of these laws are to protect the consumer against any potential risk of contracting food poisoning or food-borne illness. (Gordon-Davis, 2006). By providing the hospitality industry with the necessary health and hygiene legislation to operate whithin, the law protect the food industry from legal action If these laws and regulations are adhered to, the likelihood of guests becoming ill is reduced to a great extend, thus lowering the possibility for legal action and loss of business. It is extremely important that all F&B managers and their employees be well versed in all of the laws around food production as they have a huge responsibility to the public they serve (Johns, 1996). Every food and beverage industry is essentially a manufacturing operation. All restaurants take raw materials and " manufacture " them into dishes on a menu. The more exclusive the restaurant the relatively less convenience foods will be used and in-house production will be greater.

A sample of possible control techniques for food production

The following control techniques are available to an F&B manager:
1. Establishing the needed standards using HACCP.
2. Establishing procedures to prepare foodstuffs.
3. Training personnel in how to observe legal requirements around food production
4. Observing and correcting incorrect employee activity
5. Keeping records of stock.
7. Disciplining employees when gross negligence is observed or reported.

Establishing standards and standard procedures are vital tasks for effective control and no standard is important or useful unless employees know about them and what is expected of them. The process of training is thus critical and managers must actively teach employees how work is expected to be done, after they are supplied with the standards and standard procedures have been set. If the

employees are not correctly trained to follow established standard procedures, the control of the manager becomes very difficult, and even impossible. Discipline may from time-to-time be a control technique in food and beverage operations and may assume a variety of forms. Managers should in any event observe and correct employees when blatant mistakes in standard operating procedures are made.

Conclusions

The safety of all foodstuffs from the place of primary production in the restaurant up to the point of sale to the consumer requires an integrated approach by food production employees and all food business operators must ensure that the safety of foodstuffs either purchased or manufactured is not compromised. All potential food hazards which may be present at the level of primary production must be proactively identified and adequately controlled so that customers have a positive 'wow' experience and are 'delighted' by their visit to a particular establishment. If food and beverage operations are to succeed they must market their products effectively and then offer what they advertise that they offer (Lovelock, 2007).

In the South African context, flexibility is required so as to take account of the specific character of traditional and indigenous ways of the production of foodstuffs and of possible supply difficulties that may arise due to geographical constraints where restaurants are in remote areas. However such flexibility must not compromise the objectives of food safety and health. Zeithaml, et al., (2005) state that if something does go wrong in service delivery in terms of food hygiene, for example, the way the operation handles the issue is critical. If there is an immediate apology and measures taken to redress the wrong, there may paradoxically be even better customer loyalty than would have been the case had nothing gone wrong. Ideally, naturally,

nothing should be allowed to go wrong. Smith & Bolton (2002), also maintain that every effort must be made to immediately satisfy guests as soon as possible once they have been affected by poor service.

Since customer perceptions of a dining experience are very strongly influenced by emotional and experiential reaction from the encounter with the service provider, the latter should endeavour to deliver service quality products free of health risks and top notch service, and strive to achieve a high level of customer satisfaction.

F&B managers must ensure that all employees handling food are supervised and instructed and/or trained in food hygiene matters that are appropriate to their work. Equally important, Food business operators must ensure that staff responsible for the development and maintenance of the HACCP system in their operation have received ample training in the standards of HACCP and the areas covered in the relevant guides.

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