

Insights for Your Industry — **Hotels**



Innkeeper's Liability for Loss to Guest's Property *Should You Consider Insurance Coverage?*

In order to evaluate the need for insurance coverage, it is important to understand the legal liability issue. Under common law, an innkeeper or hotelier was liable for loss or damage to guest's property for the full value, unless the loss was caused by an act of nature (hurricanes, tornadoes, etc.), civil unrest, or the fault of the guest. Today this general rule still exists, but states have modified the common law by enacting statutes that limit the hotel's liability, provided the hotel complies with the statutory requirements. Although amounts vary from state to state, liability ordinarily is limited to a specific figure, which typically ranges anywhere from \$250 to \$2,000.

Hotels typically post conspicuous notices indicating that valuables worth more than a certain amount must be deposited in the hotel safe in order to be covered for any loss. (Room safes are generally recommended only if they contain digital keypads, and the guest assumes all responsibility for getting into the safe and keeping the combination confidential.)

Two states have been randomly selected to provide examples of these statutes.¹ The Massachusetts statute states that an innkeeper is not liable for losses sustained by guests, except for wearing apparel, luggage, or money for travel expenses and personal use. In the event of such loss, the innkeeper is not liable for more than \$300 in any one loss. However, if the loss involves the loss of money or jewelry that is deposited for safe keeping with the hotel, the innkeeper will be liable for an amount up to \$1,000.

When the innkeeper provides a security box in a guest room, the innkeeper will not be liable for loss to items deposited in the security box caused by theft or otherwise, for more than \$1,000, provided that a notice to guests is posted indicating



the limitations of the hotel's liability. The notice must be conspicuously posted in each room of the hotel or inn. If the loss is caused by a fire or overwhelming force (e.g., weather related catastrophes), innkeepers are responsible to their guests only if they failed to exercise ordinary and reasonable care while the guest's property was in their custody.

Another example, the New Mexico statute, states that the hotel is liable to its guests for loss of their property that is caused by the theft or negligence of the hotel or its staff, up to a limit of \$1,000. However, if the hotel provides a suitable safe for safekeeping of money, jewelry, or other valuables, and notifies guests by posting a printed notice in hotel rooms, and guests fail to deposit their valuables in the safe, the hotel will not be liable.

Although a hotel's liability is limited by statute, the limitation applies only if the hotel has followed the requirements of the statute concerning conspicuously posting notice of the availability of safes, etc. In the situation where those requirements are not followed, the limitation would not apply and the hotel could be responsible for the full value of the stolen or damaged property.²

¹Note: These statutes are subject to change and could be modified by court interpretation. It is advisable that Innkeepers consult legal counsel in order to confirm the current provisions of the statute in their state or to obtain an updated version.

²In *Paraskevaides v. Four Seasons*, a hotel guest placed jewelry worth \$1.2 million in the in-room safe. When it was stolen, Paraskevaides sued the hotel for the full value of the jewelry. The hotel denied the claim asserting its liability was limited to \$1,000 based on the innkeeper's liability statute applicable in the District of Columbia. The trial court ruled for the hotel, but the decision was reversed on appeal. The Appeals court held that the statute required the hotel to conspicuously post notice of the availability of a hotel safe for safekeeping of valuables, including notice of its limited liability, in both the guest rooms as well as in the public area of the hotel. While the hotel posted this notice in guest rooms, it did not post such notice in the public area. Hence the hotel failed to comply fully with the innkeeper's liability statute which would have limited its liability.



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It is important that hotel management is familiar with the law applying in their state as well as any updates to the law. A Web site is available that describes the various state statutes,³ but keep in mind that these statutes can change.

Insurance is available for innkeeper's liability through an innkeeper's liability policy or through the Guest's Property endorsement available with the Crime insurance policy. Check with your agent or broker to determine specifically what he or she recommends.



³Go to: www.inn-security.com/resources/innkeeper_statutes_manual.pdf The list of statutes is provided by National Specialty Underwriters, Inc. (NSU), Bellevue, WA, tel. (425) 450-1090. The firm specializes in insuring hospitality risks, among others.