



CLM 2021 Workers Compensation, Retail, Restaurant & Hospitality Conference  
May 12-14, 2021  
webinar  
Narrative

### **Human Trafficking: The Silent Risk**

There are different forms of human trafficking and they have a significant impact upon venues in the retail, restaurant, and hospitality service industries.

#### **Labor v. Sex Trafficking**

Labor trafficking uses violence, threats, lies, debt bondage, or other forms of coercion to force people to work against their will in many different industries. Traffickers often use false promises of a high-paying job, education or travel opportunities. Victims frequently work long hours for little to no pay.

Sex trafficking uses threats, manipulation, lies, debt bondage, and other forms of coercion to compel adults and children to engage in commercial sex acts against their will. Victims are lured in with false promises of a job (modeling or dancing). Some are forced to sell sex by their parents or family members. Victims could be involved in a trafficking situation for a few days, weeks or years

#### **Trafficking Statistics**

In 2014, profits for this trade are estimated at \$150 billion per year for criminal traffickers according to an ILO report from 2014. Some say that criminal trafficking has even eclipsed the drug and gun trade.

International Labour Organization: *More than 40 million victims*

- 81% forced labor
- 25% children
- 75% women & girls
- \$150 billion industry globally

#### **Industries Impacted**

Trafficking affects the agriculture, construction, domestic service, factory work, fisheries/fishing, hospitality, and restaurant & food industries, just to name a few.

Domestic service: Typically, victims are abused in the homes of family members or someone they considered a close friend, who then force them to perform numerous household

jobs like cleaning, cooking, child and elderly-care, gardening, or other forms of labor where they work anywhere from 10 to 16 hours per day with little to no pay.

**Factories:** Laborers can work 10 to 12 hours per day, seven days a week, with little to no break. Perpetrators typically misrepresent the business, giving workers false information regarding working conditions, benefits, and wages. If workers try to leave, they may be threatened with deportation, violence, or harm to their families.

**Restaurants and Bars:** Many hostesses and dancers of this business are coerced to fulfill a job that dehumanizes and exploits their personal being. According to Polaris, although many victims are usually adult women, some places force minors into the industry as well

**Hospitality:** This industry has its peaks of high demand for workers during holiday seasons. Forcing employees to complete extreme tasks under little protection and with little compensation.

### **Educate, Activate, & Report (E-A-R)**

#### **Educate:**

What is human trafficking and what acts are considered to be human trafficking?

It takes many forms and includes those who are forced to work under threats of violence or by other means such as accumulated debt, passport retention, or threats of being reported to immigration authorities. It primarily exists in the labor area and includes forced prostitution. The industries include: construction, domestic services, agriculture, mining, forestry, fishing and manufacturing are vulnerable to such claims, whereas sex trafficking claims arise against hotels, strip clubs, hotel franchisors, website host providers, website software providers, dating sites, massage parlors and nail salons

Become familiar with the human trafficking law(s) that apply to the business. A new CA law requires hotels and motels subject to the Fair Employment and Housing Act (FEHA) to provide at least 20 minutes of classroom or other effective training regarding human trafficking awareness to each employee who is likely to interact/come into contact with victims of human trafficking.

#### **Activate**

Execute the protocol of the employer/franchisor (i.e. if the business is required to keep notes at the hotel front desk, if there is a blacklist of guests not allowed on the premises – follow through and make sure list is current).

Re-visit security measures at the premises. For example, make sure the security cameras are pointed in the right areas and that footage is maintained for a reasonable period of time, monitor the cameras that are at the front desk and consider having an employee patrol the premises periodically.

Implement other preventative policies such as; limit the number of people in a hotel room to no more than two (2) to four (4) adults or two (2) adults and two (2) children. Consider requiring all visitors to check in at the front desk, requiring all vehicles to obtain a parking pass, and limiting visitors on the property from 10:00 p.m. to 6:00 a.m. Post signage that the premises is being monitored and consider posting signage regarding combating human trafficking.

Prevent negligent hiring claims by researching any criminal background, online presence, and reasons for dismissal(s) from prior employers of applicants

## **Report**

Work with law enforcement and always be vigilant. Businesses should cooperate with law enforcement; however, it is important to be mindful of over-reporting. The more monitored and vigilant employees are, the less likely the premises is to be a target for human trafficking. Want to avoid disorderly house claims by over reporting but strike a happy medium. Police calls are tracked can be subpoena'd in any subsequent civil suit and while they should not come in, often times judges will allow them in with a limiting instruction, which is obviously taints the jury pool no matter what and also leaves you arguing against a "disorderly house" claim by the other side, even if the calls were out of an abundance of caution.

## **What is being done to combat trafficking?**

Prevention through awareness: learn the indicators of human trafficking so you can help identify a potential trafficking victim; Be well-informed; Set up a web alert to receive current human tracking news. Other efforts include volunteering and supporting anti-trafficking efforts in your community. California and the EU passed laws in 2012 requiring retailers and manufactures in California to disclose their efforts to stop human trafficking and slave labor from their direct supply chains. The law affects retailers or manufactures with over \$100 million in annual worldwide gross receipts.

## **Hotel Staff Training**

Effective January 1, 2020 in CA– hotel and motel employers must provide at least 20 minutes of human/sex trafficking liability training to certain employees every 2 years and newly hired employees must receive training within 6 months of their hire dates

Training is not a fail-safe but it will help spot the issues that we have seen in cases of human trafficking and hopefully get help to victims sooner, or better yet, prevent this horrible crime. We want to increase accurate identification rates of human trafficking victims

## **Legislation at state & national level**

In 2018, President Trump signed "SESTA" and "FOSTA" into law. SESTA stands for Stop Enabling Sex Traffickers Act. FOSTA stands for "Fight Online Sex Trafficking Act."

There are 34 total states that provide standing for civil suits: ME, VT, NH, NY, MA, CT, NJ, PA, OH, IN, DE, WV, KY, MO, NE, WI, SD, NV, ND, CO, MT, WA, CA, UT, KS, AR, TN, NM, OK, LA, MS, AL, SC, and FL

Human Trafficking (as of 2020)

Thirteen states require signage: California, Connecticut, Georgia, Louisiana, Maine, Minnesota, New Mexico, New Jersey, New York, North Carolina, South Carolina, Texas and West Virginia. Seven states require signage if the lodging facility has been cited as a public nuisance: Alabama, Arkansas, Maryland, Michigan, Missouri, Pennsylvania and Rhode Island. Twelve states recommend signage: Kansas, Massachusetts, Michigan, Montana, Nebraska, New Jersey, New York, Ohio, Tennessee, Vermont, Washington and Wisconsin. Fourteen states have penalties for noncompliance: Alabama, Arkansas, California, Connecticut, Georgia, Louisiana, Maine, Maryland, Michigan, Missouri, North Carolina, Pennsylvania, Rhode Island and South Carolina. Four states require training: California, Connecticut, Minnesota and New Jersey. Eleven states recommend training: Colorado, Iowa, Kansas, Louisiana, Michigan, Missouri, Oregon, Pennsylvania, Rhode Island, Texas and Vermont

### **Nuisance abatement**

California - Bill passed in 2010, and authorizes law enforcement to seize land involved in human trafficking and raise civil penalties up to \$25,000.

Ohio - City of Columbus used civil litigation authorized until the state's nuisance abatement code to shut down a human trafficking operation.

There is a private right of action in Alabama, Arkansas, Michigan, Pennsylvania, and Rhode Island for not complying with HT laws.