



“Back in Business: Legal Challenges as Restaurant Employees Return to Work,” Modern Restaurant Management

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Amy Jordan Wilkes outlined issues for restaurants to consider as employees return to work in a May 15, 2020 article for Modern Restaurant Management.

Restaurants will face a number of challenges and risks as they begin reopening their dining rooms following closures due to COVID-19. Businesses will face challenges when recalling furloughed or laid-off workers due to potential claims of discrimination and employees refusing to return due to fear of the virus.

For employees that do return, many restaurants will want to screen employees daily in compliance with return-to-work guidance, but they should mind privacy requirements under the Americans with Disabilities Act (ADA). They should also consider reasonable accommodations under the ADA to better protect employees with “high risk” medical conditions. Beyond these accommodations, businesses should follow CDC and OSHA guidelines to better ensure a safe workplace, as well as operating requirements at the state and local level.

Finally, efforts to promote workplace safety and to bring employees back to work could lead to wage and hour issues. Because many employees will be asked to work fewer hours or perform different duties, employers should consider the effects on employees’ exemption status. Additionally, employers conducting COVID-19 screenings before shifts should consider paying staff for time spent waiting for the screening to avoid any future wage and hour claims.

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