

Zika and the Hospitality Employer: Evolving Concerns as the Virus Comes to the U.S.

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By [Charles E. Engeman](#)



We've previously answered some basic questions that employers may have when their employees work in or visit locations where exposure to Zika virus is a risk. With recent news concerning the first cases of transmission of the virus by mosquitoes in the Miami, Florida area, hospitality employers are becoming increasingly concerned about how the virus will affect their businesses.

We've previously answered some [basic questions that employers may have when their employees work in or visit locations where exposure to Zika virus is a risk](#). With recent news concerning the first cases of transmission of the virus by mosquitoes in the Miami, Florida area, hospitality employers are becoming increasingly concerned about how the virus will affect their businesses. This blog post will address some issues unique to the hospitality industry.

The hospitality industry has been affected more than almost any other industry by this virus. The Zika virus has discouraged business, social, and cultural organizations from traveling to areas with active Zika cases, caused groups with current contracts to attempt to cancel their contracts, and caused an overall reduction in travel to affected areas, as well as causing concerns for the health and safety of hospitality

workforces, many of which work outdoors at resorts and restaurants. The most important tip we can offer is simple—**do not panic**, but do ensure that precautions are taken to protect your guests and employees from insect bites and stay informed about Zika virus. Hospitality employers in affected communities should approach this matter seriously and aggressively, recognizing that the most effective way to control Zika virus is to reduce the prevalence of, and exposure to, mosquitoes.

The U.S. Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) are monitoring the Zika virus outbreak and have provided the following recommended employer actions for outdoor workers in its [“Interim Guidance for Protecting Workers from Occupational Exposure to Zika Virus”](#) fact sheet:

- “Inform workers about their risks of exposure to Zika virus through mosquito bites and train them how to protect themselves.”
- “Provide insect repellents and encourage their use” in accordance with their directions.
- “Provide workers with, and encourage them to wear, clothing that covers their hands, arms, legs, and other exposed skin. Consider providing workers with hats with mosquito netting to protect the face and neck.”
- “In warm weather, encourage workers to wear lightweight, loose-fitting clothing” that will serve as a barrier to mosquitos.
- “Get rid of sources of standing water (e.g., tires, buckets, cans, bottles, barrels) whenever possible to reduce or eliminate mosquito breeding areas. Train workers about the importance of eliminating areas where mosquitos can breed at the worksite.”
- “If requested by a worker, consider reassigning anyone who indicates she is or may become pregnant, or who is male and has a sexual partner who is or may become pregnant, to indoor tasks to reduce their risk of mosquito bites.”

Further guidance is available on OSHA’s [Interim Guidance for Protecting Workers from Occupational Exposure to Zika Virus](#) page. Additionally, employers and employees should all continue to monitor the latest Zika news from [the Centers for Disease Control and Prevention](#).

While most of this advice is common sense and easy to implement, some of it can run counter to a hotel or restaurant’s dress code and image. For example, should a resort hotel with a hip dress code require its poolside servers to wear long sleeve shirts, pants, socks, hats with mosquito netting, and gloves to prevent possible mosquito bites? Hospitality employers may want to assess the risk of Zika virus in the geographic areas in which they operate and respond appropriately and proportionately. Resorts may want to engage in aggressive mosquito control for areas surrounding pools and other outdoor areas frequented by guests and employees and to provide employees with mosquito repellent and strongly encourage its use, but HazMat suits are not required, nor are they good for business. Hospitality employers may also want to grant requests to transfer to indoor positions made by employees who are planning a pregnancy. This does not, however, mean that an employer should prohibit a pregnant employee from working outdoors, as that may result in a successful discrimination lawsuit.

The unknowns about Zika have caused panic in many areas. In addition to legitimate concerns about Zika, there have also been attempts to use the latest reports about Zika in Florida to attempt to get out of contractual obligations that may be inconvenient for other reasons. For the protection of hospitality businesses, including the livelihoods of their employees, hospitality businesses should not cave to any panic and should understand that Zika is unlikely to trigger a “force majeure” clause in any well-written group sales contract. The current Zika reports have not made the performance of such contracts illegal or impossible.

The best way to avoid panic among employees and guests is to educate, educate, educate. Zika is an important and disturbing development, but it should not be allowed to shut down the hospitality industry in affected areas.

For more information on how hospitality employers can manage employees in areas affected by Zika, please join us for a timely webinar, “Zika Virus Hits the United States: What Should Employers Do Next?,” on Wednesday, August 17, 2016 at 2:00 p.m. Eastern. Our speakers, [Michael Oliver Eckard](#) (shareholder, Charleston/Atlanta), [Ruthie L. Goodboe](#) (shareholder, Detroit (Metro)/Pittsburgh), and [Phillip B. Russell](#) (shareholder, Tampa) will discuss the latest workplace issues related to Zika virus. To register, [click here](#).

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