

THE ESSENTIAL GUIDE  
TO  
CALIFORNIA RESTAURANT LAW

Paul Tour-Sarkissian

Tania Tour-Sarkissian

CAROLINA ACADEMIC PRESS

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Durham, North Carolina

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Library of Congress Cataloging-in-Publication Data

Tour-Sarkissian, Paul.

The essential guide to California restaurant law / Paul Tour-Sarkissian and  
Tania Tour-Sarkissian.

p. cm.

Includes bibliographical references and index.

ISBN 978-1-59460-659-5 (alk. paper)

1. Restaurants--Law and legislation--California. 2. Restaurateurs--Legal status, laws, etc.--California. 3. Restaurant management--California. I. Tour-Sarkissian, Tania. II. Title.

KFC446.H6T68 2009

343.794'07864795--dc22

2009015134

CAROLINA ACADEMIC PRESS  
700 Kent Street  
Durham, North Carolina 27701  
Telephone (919) 489-7486  
Fax (919) 493-5668  
[www.cap-press.com](http://www.cap-press.com)

Printed in the United States of America

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# Preface

With more than 61,336 eating and drinking establishments in California, restaurants have provided 10% of the state's total employment.<sup>1</sup> Restaurant sales in California are projected to reach \$56.2 billion in 2009.<sup>2</sup> More people are eating restaurant meals than ever before. In 2009, notwithstanding the economic downturn, restaurant sales in the United States are projected to reach \$566 billion.<sup>3</sup>

This enthusiasm for restaurant meals is accompanied by an increasingly challenging business environment, more regulation, and increased prospects of litigation. As restaurant law can be seen as encompassing many different areas of the law in addition to the regulation of food and alcohol—contract law, tort law, labor law, and environmental law, to name a few—attorneys representing restaurants must keep informed of a vast swath of federal, state, and local laws, regulations, and judicial decisions. In a sense, restaurants embody the complexity of modern life. It is not surprising, then, that even successful California restaurants find compliance with the applicable legal infrastructure to be challenging, thus requiring the advice of counsel.

THE ESSENTIAL GUIDE TO CALIFORNIA RESTAURANT LAW, which is the first book of its kind, presents the issues that, time and again, have surfaced during years of legal representation of restaurants. The book is designed to provide a general understanding of federal and California law to attorneys representing California restaurants, and begins by examining food preparation and safety, restaurant design and equipment, insurance, inspections, the service of alcoholic beverages, and liability for food-related and alcohol-related injuries. The second part of the book examines restaurant customer and employee safety and security issues, and discusses premises liability, lost prop-

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1. National Restaurant Association, *California Restaurant Industry at a Glance*, available at <http://www.restaurant.org/pdfs/research/state/california.pdf>. Statistics are for the year 2007.

2. *Id.*

3. National Restaurant Association, *Restaurant Industry—Facts at a Glance*, available at [http://www.restaurant.org/research/ind\\_glance.cfm](http://www.restaurant.org/research/ind_glance.cfm).

erty, credit card fraud, video surveillance, emergency preparedness, slip and fall prevention, fire suppression, environmental regulation, and occupational safety requirements. The topics in the third part of the book relate to the rights of both restaurant customers and employees, such as fair and equal treatment of customers, avoidance of discrimination against individuals with disabilities, vicarious liability, background checks, sexual harassment, key wage and hour laws, and information for employees provided by workplace postings. The fourth part of the book examines healthy lifestyle issues such as restaurant menu labeling and the ban on trans fats in restaurant cooking, and moves on to California's smoking ban, the ability to provide background music and television programming, arcades and billiards, and outdoor dining areas and playgrounds.

As evident from the preceding paragraph, this book is a survey of important legal issues that pertain to the daily operation of a California restaurant, and is designed to provide an efficient starting point for an attorney's client-specific analysis and review of legal issues and applicable law. Given this perspective, the book does not discuss topics related to starting a restaurant business, such as negotiating leases and contracts, and it does not provide a comprehensive analysis of all the labor and employment issues that arise in a restaurant setting. Additionally, the discussion in the book is limited to restaurants, to the exclusion of the other food facilities regulated under California law. Similarly, although bars are mentioned in the chapters on alcohol, the book's focus is upon the service of alcoholic beverages in appropriately-licensed restaurants.

Research for this book was conducted by reviewing seminal state, federal, and administrative cases, state and federal laws and regulations, local ordinances, pending legislation, news articles, and websites of associations and organizations in the restaurant industry. We have mentioned various vendors and organizations and their websites for the convenience of readers, but with no intention of making endorsements or advertisements.

Through familiarity with the issues and applicable law discussed in this book, attorneys representing restaurant clients will be better prepared to recognize potential problems, to devise strategies for compliance, and to limit clients' exposure to litigation through the avoidance of liability. We believe that, given the breadth and depth of the legal issues pertinent to restaurants in California, *THE ESSENTIAL GUIDE TO CALIFORNIA RESTAURANT LAW* will be a singularly effective tool for legal practitioners.

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October 2009

# Acknowledgments

We would like to thank several lawyers whose legal research and analysis enabled this book to reach completion: Jennifer DeArmond, Erin Harper, Jaime Maurer, Matthew Miller, Erin Schietinger, and Jessica Williams. We would also like to thank Christine Tour-Sarkissian, a principal in Tour-Sarkissian Law Offices, and Professor Roger Bernhardt of Golden Gate University School of Law for their support and encouragement throughout this project.

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