

## OHLA Delegation Visits U.S. Sen. J.D. Vance's Office for Joint Employer Issue

Member hotel owners joined OHLA's government affairs team on February 1 to meet with senior staff for U.S. Sen. J.D. Vance to discuss the significant problems created by a new NLRB regulation that would make franchisors joint employers with franchisees in many instances.



The new rule diverges significantly from the traditional joint employer standard that considers two entities as joint employers only when they exert direct and immediate control over the essential terms and conditions of employment. It would destroy the franchise model by taking control away from franchise owners. OHLA is urging lawmakers to support two measures in Congress that would nullify the regulation, H.J. Res 98/S.J. Res 49.

The U.S. House passed its resolution on January 12, with four cosponsors from Ohio supporting our call to overturn the rule: Rep. Robert Latta (Bowling Green), Rep. Warren Davidson (West Chester), Rep. Troy Balderson (Zanesville), and Rep. David Joyce (Bainbridge Township).

At its very core, any decision that assigns liability for franchisees' employment decisions to the franchisor may cause franchisors to impose control over the daily operations of each business to mitigate against any potential legal claims.

Under the new rule, joint employer liability can be triggered when two employers have indirect and reserved control over the terms and conditions of employment. As the final rule reads, the essential terms and conditions are extremely vague, leaving interpretation up to the NLRB and taking away autonomy from franchisees.

Under the NLRB's new rule, a business would be considered a joint employer if it controls, either directly or indirectly, any one of a worker's "essential terms and conditions of employment. Those terms and conditions include:

- Wages, benefits, and other compensation
- Hours of work and scheduling
- The assignment of duties to be performed
- The supervision of the performance of duties
- Work rules and directions governing the manner means, and methods of the performance of duties and the grounds for discipline
- The tenure of employment, including hiring and discharge
- Working conditions related to the safety and health of employees

The NLRB's new rule would significantly increase the number of companies participating in labor negotiations alongside their franchisees. This change would make hotel franchisors jointly liable for workplace matters at franchise locations even though franchisors have no control over franchise employees. Other potentially negative impacts on franchisees are nullification of existing agreements, loss of lending and access to capital, and increased costs for, or loss of, insurance coverages.

## OHLA Hosts First Legislative Reception in New Offices

OHLA leaders and members joined with partners from the Ohio Association of Professional Firefighters to host a reception for members of the Ohio General Assembly and members of their staff on January 24.

Numerous lawmakers attended and were able to visit the OHLA offices near the state capitol and discuss issues important to our industry and the travel economy.

Working with OAPFF as “Partners in Safety,” hoteliers also welcomed special guests, including Chief Alan Smith from the State Division of Fire Marshal, Columbus City Attorney Zach Klein, and representatives from other organizations with a presence in Ohio’s Statehouse.

Watch for more events and opportunities to connect the hotel community to our elected officials and other partners throughout the year.

## Changes in Marijuana Laws do not Change No Smoking Requirements

With Ohio voters voting in favor of an initiated statute to allow the use of recreational marijuana, some hotels report issues with guests claiming a right to smoke the substance in hotels.

The smoking of marijuana falls under the state’s general ban on smoking in public places. Ohio voters approved a smoking ban in November of 2006, prohibiting smoking in public places and places of employment. The ban provides a statewide minimum standard of protection from the health hazards associated with exposure to secondhand smoke. That law prohibits people from smoking in enclosed areas open to the public, with exceptions for outdoor patios, smoke shops, and hotel rooms designated for smoking.

There are opportunities for exemptions, and here is what those say about hotels: *“Hotels, motels, and lodging facilities may designate as many as 20 percent of sleeping rooms for smoking. The other 80 percent of sleeping rooms and all other areas such as common areas, meeting rooms, and offices, etc., must be no smoking areas.”* Note the law states, “may.” Hotels are not required to provide smoking rooms.

Some guests may claim they can smoke because it is for medical purposes. Regarding the use of medical marijuana, Ohio law states medical marijuana can’t be smoked in [Ohio Revised Code Section 3796.06](#).

And when faced with guests who don’t accept restrictions on marijuana, you can point out it is still illegal under federal law. Marijuana is a Schedule I substance under the Controlled Substances Act, meaning that it has a high potential for abuse, is not currently accepted for medical use for treatment in the United States, and lacks accepted safety for use under medical supervision. The U.S. FDA and DEA have concluded that marijuana has no federally approved medical use for treatment in the U.S., and thus, it remains a Schedule I controlled substance under federal law.

For more information, including a complete resource guide, contact [joe@ohla.org](mailto:joe@ohla.org).