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California's new human trafficking legislation requires higher employee training standards

By Matt Friedman

Matt Friedman (matt.friedman@themekongclub.org) is CEO of The Mekong Club in Hong Kong.

Over the past five years, the issue of human trafficking—both forced prostitution and forced labor—has continued to become more relevant to a full range of private sector companies. Once considered a public sector issue—with most of the emphasis on government, United Nations, and nongovernmental organizations (NGO) responses—the private sector is shifting toward the fight against human trafficking in industries like banking/finance, manufacturing, retail, technology, and hospitality. This article focuses on the new legislation in California that mandates that the hospitality, transport, and other related businesses train their staff and post public notifications of compliance.

An overview

On January 1, 2020, a portion of new legislation related to human trafficking was enacted in California that obligates companies operating in the hospitality, transportation, healthcare, and adult entertainment sectors to offer training and notice posting. This new requirement falls under SB 970, which includes additional text within the California Government Code at Cal. Gov. Code § 12950.3 and amended the Fair Employment and Housing Act.^[1] The legislation is a continuation of a trend within the US to encourage private sector businesses to raise awareness, educate the community, and provide viable responses.

As part of this new legislation, hotel and motel businesses are required to offer at least 20 minutes of training to their employees. The objective is to raise awareness among employees who are more likely to observe victims of human trafficking, including front desk operators, cleaners, doormen, and concierges. The training is required to be done within the first six months of 2020 and must include the following components:

- The definitions of human trafficking and commercial exploitation of children,
- A description of how a person can identify victims or those who may be at risk,
- An explanation of the difference between forced labor and sex trafficking,
- Guidance on the role of hospitality employees in reporting and responding to human trafficking, and
- A summary of how to contact appropriate agencies.

This training must also be provided to new employees within the first six months of their employment and be repeated every two years. Businesses that do not comply with this requirement will receive an order from the Department of Fair Employment and Housing.

In addition, the State of California also approved AB 2034, which amends Section 52.6 of the California Civil Code^[2] that requires specific businesses to post human trafficking compliant notices in an obvious location in multiple languages. The post must be in a location where it can be clearly seen by employees and the general

public. The main businesses under this directive include venues where alcohol is available; hotels, motels, and bed-and-breakfasts; adult or sexually oriented businesses; primary airports; intercity passenger rail or light rail stations; bus stations; privately owned truck stops; emergency rooms within hospitals; urgent care centers; farm labor contractors; privately operated job recruitment centers; and roadside rest areas.

AB 2034 also requires that employees receive training similar to SB 970, including:

- The definition of human trafficking (both sex trafficking and labor trafficking),
- Myths and misconceptions about human trafficking,
- Physical and mental signs to be aware of that may indicate that human trafficking is occurring,
- Guidance on how to identify individuals who are most at risk for human trafficking, and
- Guidance on how to report human trafficking to the appropriate agencies and protocols for reporting human trafficking when on the job.

Businesses that do not comply will receive civil penalties, including fines.

While this legislation is for California, similar legislation is also being considered in Iowa, Massachusetts, New York, South Dakota, and Vermont. Across the country, six states already have training requirements. An additional 28 states have notice-posting requirements. Most of these states require that the human trafficking notices be posted in hotels and motels, places of public transportation like bus stations, and at adult-oriented businesses.

The legislation's relevance to the private sector

Human trafficking, which comprises the recruitment, transport, receipt, and harboring of people for the purpose of exploiting their labor, affects almost all parts of the world. Globally, it is estimated that there are more than 40 million men, women, and children in slavery today, according to the latest figures.^[3] These victims, who can be found in factories, construction sites, fisheries, sex venues, and forced marriages, are forced to work for little or no pay, deprived of their freedom, and often subjected to unimaginable suffering.

Over more than a decade, the international community opposing human trafficking has not come close to meeting its full potential in both preventing and responding to this problem. While individual, small-scale success stories can be found, many victims are never identified. For example, the 2019 *Trafficking in Persons Report* (TIP Report) was only able to account for 85,600 victims globally.^[4] This means that less than 0.2% of the victims are being identified and assisted. This number has remained mostly unchanged for several years. As a result of this situation, additional legislation continues to be imposed upon businesses that could either foster a human trafficking situation or have people who could observe potential victims.

Forced prostitution and forced labor are issues that can exist either within or alongside the hospitality and transportation sectors. Due to the clandestine nature of this problem, these situations are often hidden and underreported. Two of the main ways in which these industries can be used as a conduit for this criminal activity are:

- **Forced prostitution:** The privacy that they offer and the transient nature of their guests means that hotels and motels can be prime venues for commercial sexual exploitation, a term used to describe a person in forced prostitution. The victims of this crime are controlled by their captors using threats or debt for the purpose of generating profits through the sale of sex. Likewise, many human traffickers use modern

transportation options, including buses, trains, airplanes, and cars. While these transport venues may not be directly involved in this issue, the victims often pass through them.

- **Third-party contractors:** Hotels and motels sometimes use third-party service providers as house cleaners, caregivers, gardeners, and dishwashers. Some of these people might be migrant workers who are in employment situations that include debt bondage or forced labor. Likewise, transportation companies sometimes use third-party drivers who could also be in exploitative situations.

What has been the private sector's response?

This new legislation, along with the California Transparency in Supply Chains Act (S.B. 657, Cal. 2010),^[5] is compelling the hospitality and transportation sectors in particular to carefully consider their efforts to address human trafficking. Likewise, with hotels and motels facing extensive class action lawsuits in the US, understanding this issue and having practical strategies to address it has become a priority for the hotel and transportation sectors to protect their businesses from this threat. The following are some common strategies being used:

- Many hotels and transport companies are updating their internal and external policies and codes of conduct to include statements related to human trafficking. This helps them outline their commitment and operational response.
- Comprehensive training on human trafficking is being provided to employees, contractors, and subcontractors to help them understand the issue and address it. To be effective, this training is often provided in the local language of the employees. Infographics and awareness-raising posters are being distributed to employees to remind them of their responsibilities.
- Addressing commercial sexual exploitation requires hotels to train their employees to identify and report suspicious behavior. Certain staff in areas such as security, reception, and housekeeping are in a better position to spot signs of human trafficking. Examples of suspicious behavior include:
 - Individuals who lack freedom of movement, are constantly monitored, or have no access to money or ID;
 - Requests for services such as additional towels and linens without allowing hotel staff to enter the room;
 - Rooms that are rented for a long-term stay with many people coming and going;
 - A group of girls traveling with an older person; and
 - Evidence of verbal threats, emotional abuse, or demeaning treatment.

The hospitality and transportation sectors have a distinct advantage in being able to identify and address human trafficking in all its forms. With the right training and tools, employees in these sectors can positively affect thousands of lives. It is important that these businesses assign responsibilities to supervisors so that action is taken when a case is identified. Information can also be provided to guests and travelers to prevent them from participating in this activity or enable them to report a crime. This response sometimes requires protocols that link hotels and transport workers with NGOs or law enforcement officials.

A case example

A hotel chain in the state of Connecticut provided their employees with training on the issue of human trafficking and what to do if it was identified. During a busy holiday period in December 2018, one of their cleaners began to suspect that a room in the hotel was being used for prostitution. Based on her training, the red flags she noted included: there were many men coming and going, there were multiple requests for towels, several young girls were seen entering the room without leaving, and the cleaners were asked not to service the room. This information was reported to the hotel manager who discussed the matter with the hotel headquarters. Following the in-house protocol, the local police were notified, and it led to several underage girls being identified and rescued.

Examples like this demonstrate the potential outcome of this new legislation to ensure that those people working in the hotel business have the skills and means to identify and report a potential crime.

Conclusion

Private sector industries in California and elsewhere need to understand that by addressing the issue of human trafficking, they are not only protecting their business, but they are also helping to address one of the biggest injustices of our time. The outcome will be that many people will be freed from bondage. This makes their efforts truly heroic.

Takeaways

- The hotel and travel industries, in particular, will need to be better prepared to address human trafficking growing within the private sector.
- New legislation in California mandates that the hospitality and transportation sectors must train their staff and post public notifications of compliance.
- Beyond this new legislation, the hospitality and transportation sectors are updating policies, expanding training, developing internal protocols, and assigning responsibilities to specific staff to act.
- In the coming years, similar legislation will be passed in other states that will include these components and possibly more.
- By addressing the issue of human trafficking, employees are protecting their business and helping to address one of the biggest injustices of our time.

¹ Fair Employment and Housing Act, Cal. Gov. Code §§ 12900–12996.

² Cal. Civ. Code § 52.6, <https://bit.ly/33Ij9Nw>.

³ Minderoo Foundation, *Global Slavery Index 2018*, accessed March 25, 2020, <https://bit.ly/3drLxry>.

⁴ U.S. Department of State, *Trafficking in Persons Report 2019*, June 24, 2019, <https://bit.ly/2z2MxTc>.

⁵ California Dept. of Justice, *The California Transparency in Supply Chains Act: A Resource Guide*, 2015, <https://bit.ly/1CBYoyT>.

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