BUSINESS INSURANCE®

Policy revamps, coverage reviews required as pandemic serves up new restaurant risks

Posted On: Jun. 1, 2021 12:00 AM CST

Claire Wilkinson

Curbside pickup, delivery, outdoor dining and online ordering have reshaped restaurant spaces and generated new revenue streams during the pandemic, making it vital that risk managers stay engaged with insurers and review their coverage as renewals approach.

Risk transfer needs may have shifted during the pandemic and, in a hard market, policy terms and conditions have tightened, triggering potential coverage gaps for restaurants.

Especially coming into the first insurance renewal from the pandemic, discussions with underwriters are critical to communicate any business changes and the risk management improvements that restaurants have made, said Jonathan Price, senior director, risk and insurance, at Main Event Entertainment Inc., based in Dallas.

“We have all changed through this past year,” whether it’s a shift to work-from-home employees, supplying personal protective equipment in the workplace, or creating a socially distanced restaurant space, said Mr. Price, who is also the immediate past president of the Risk & Insurance Management Society Inc.’s Dallas-Fort Worth chapter.

“The carriers need to understand improvements we’ve made as a restaurant as well as the changing landscape of restaurants that may (now) offer alcohol, or food delivery, or even have added first-party food delivery that they didn’t do historically,” he said.

Kristi Whistle, Louisville, Kentucky-based managing director and leader of Marsh LLC’s Restaurant Center of Excellence, said changes that restaurants implemented to be successful, such as technology upgrades for online ordering and delivery of food and alcohol, changed their exposures.

Restaurants that have entered the delivery space need to understand the ramifications, she said. In the case of third-party delivery, they should be “reviewing those contracts … ensuring that the indemnification language is adequate,” Ms. Whistle said.

Alcohol-to-go is a new exposure and a substantial enough change that restaurants need to notify and have discussions with their insurers, Ms. Whistle said. There could also be some cyber risk at play with online ordering, she said.

Risk managers in the restaurant sector need to get clarity on the new bacteria exclusions that insurers are trying to add to policies, Mr. Price said. “We always had the typical foodborne illness, salmonella, E. coli coverage. Now you’re seeing insurers introduce blanket bacteria exclusions,” he said.

“It’s important that risk managers get the carvebacks … and understand how an exclusion could potentially impact traditional coverage that they thought they had last year,” Mr. Price said.

While curbside pickup in general is not viewed by underwriters as high hazard, if restaurants use their own employees for delivery, that is “quite a wrinkle,” said Ron Levitt, president, Chicago, and a casualty broker at CRC Group LLC.

“In general, food delivery is not the most savory class of business in the industry,” Mr. Levitt said. Certain insurers specialize in it and underwrite it thoroughly to make sure safety procedures are in place, he said.

By outsourcing delivery to third parties such as DoorDash and Grub Hub, restaurants can mitigate the risk and the cost of liability coverage, he said.

For restaurants that offer food delivery services, even taking COVID-19 out of the equation, rates have increased anywhere from 20% to 50%, said Josh Miller, vice president, account executive-food and beverage practice, at Lockton Cos. Inc. in Kansas City, Missouri. “It could potentially go higher if they shift to first-party delivery,” he said.

As for alcohol, many state governors signed executive orders temporarily allowing bars and restaurants to offer alcohol take-out or delivery orders during the pandemic, and a growing number of states, including Florida and Texas, have enacted laws making the changes permanent.

Alcohol-to-go is a viable way for restaurants to bring in a new revenue stream, but protocols need to be in place, Mr. Miller said.

Each state has its own statutory requirements regarding whether a restaurant can offer alcohol-to-go and practices around “what you can sell, who can purchase it, and how it needs to be sealed,” he said.

Restaurants need to check on the availability of liquor liability coverage, said Seth Johnson, Clearwater, Florida-based president, RT Binding Authority, a part of RT Specialty LLC, a division of Ryan Specialty Group.

“Even pre-pandemic, this was a very difficult line of coverage,” depending on the state in which a restaurant operates, he said.

Dram shop laws in many states hold businesses, including bars and restaurants, liable for serving or selling alcohol to individuals who later cause death or injury to another person or property damage.

Some states, such as Virginia and Maryland, are lenient from a dram shop perspective, but others are strict, Mr. Johnson said.

If a restaurant has a $2 million general liability policy, it might only be able to buy a liquor sublimit of $100,000 or $200,000, for example. Getting full liquor liability coverage in more restrictive states can be “difficult and potentially expensive,” Mr. Johnson said.