



**Missouri Department of Health and Senior Services**

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**Technical Bulletin L1-12**

**TO:** Regional EPHS V's  
Local Public Health Administrators  
Local Environmental Public Health Specialists

**FROM:** Mark Jenkerson, Chief  
Bureau of Environmental Health Services

**SUBJECT:** Clarification of the Definition of a Lodging Establishment

**DATE:** March 23, 2012

Several inquiries have been received concerning how to determine what is a lodging establishment and although the Environmental Health Operational Guidelines (EHOG), the law [315.005(4) and 315.065] and rule [19 CSR 20-3.050] all have definitions, it can be challenging to interpret and ultimately make a decision. This bulletin will attempt to present the factors that need to be considered and evaluated in making a decision. Unfortunately, this document may not address all the situations that will be encountered and for that reason, remember that should you have questions contact the District V or the Lodging Program for assistance.

Using the definition in the law as a starting point, the criteria to consider are:

- How many units or guest rooms does the establishment rent?
- How are the accommodations kept, used or advertised?
- Who owns the facility?

Beginning with the number of rooms available, is perhaps the easiest starting point. The statute defines a lodging establishment as: "any building, group of buildings, structure, facility, place, or places of business where five or more guest rooms are provided...". Therefore the first thing to determine is how many "guest rooms" are provided. If there are fewer than five guest rooms it is not a lodging establishment. Since the definition also states: "group of buildings, structure, facility, place or places of business..." this allows the "guest rooms" to be in one single structure or in multiple structures and in perhaps some situations even in a different locations. So you need to ask questions to determine how many rooms are available for rent and if all of the guest rooms are in a single structure.

Once you have determined how many rooms are available then consider how are the accommodations "kept, used, maintained, advertised or held out to the public for hire which can be construed to be a hotel, motel, motor hotel, apartment hotel, tourist court, resort, cabins, tourist home, bunkhouse, dormitory, or other similar place by whatever name called...". Any facility that refers to the business as a hotel, motel, inn, etc. is advertising as a hotel, etc. and is considered to be a lodging establishment. So if you find a facility listed in the phone book as a hotel or the word hotel/motel is in its name, or perhaps they have a city issued business license as a lodging facility, they are advertising themselves as a hotel. You will need to ask probing questions about the accommodations that are provided. Asking yourself, are the accommodations or services such that the facility may be construed to be a hotel? If there are basic services provided to the guests such as: housekeeping, linens, furniture and essential utilities (water, sewer, electricity, gas, etc.), these are services if offered can be construed to be services that a lodging establishment would offer. What seemingly confuses this interpretation is that some apartments come furnished or have utilities paid. However, remember to

consider the rest of the statute and in this instance specifically an apartment is not advertising as a hotel.

Ownership of the facility is another piece of information that is important to have when evaluating if it is a lodging establishment. In 315.065 RSMo, it states: "The provisions of sections 315.005 to 315.065 shall not apply to dormitories and other living or sleeping facilities owned or maintained by public or private schools, colleges, universities, or churches unless made available to the general public and not used exclusively for students and faculty, school-sponsored events, baseball camps, conferences, dance camps, equitation camps, football camps, learned professional society meetings, music camps, retreats, seminars, soccer camps, swimming camps, track camps, youth leadership conferences, or church-sponsored events." This exemption explains why dormitories, scout camps and church camps are not typically inspected; however, it is worthwhile to assure that the facility continues to operate in a manner consistent with the statute and is not available to the general public. If rooms, cabins or accommodations are available to the general public then the facility is a lodging establishment.

One criteria that is frequently misused in determining whether a facility is a lodging establishment is the length of stay. The statute clearly states: "all such accommodations operated for hire as lodging establishments for either transient guests, permanent guests, or for both transient and permanent guests...". Since the statute allows for permanent guests, the length of stay is not a factor to consider.

As facilities are found they "test" or challenge definitions and interpretations, one such facility that appears to meet the definition of lodging establishment is the bunkhouses or cabins provided to hunters. There are sleeping accommodations available where linens are provided and housekeeping services included. These "hunting lodges" often are facilities where more than five rooms are available and they do not meet the exemptions provided in 315.065 RSMo. In clarifying the interpretation that these accommodations are not lodging establishments consider how this facility promotes their business. They are "selling" hunting packages and the accommodations are incidental. The facility does not advertise as a hotel. The accommodations that are provided are complimentary to the actual service. The hunters that stay in these facilities are paying for a packaged hunt, they are not renting a "guest room" in a lodging establishment. These facilities do not rent rooms without the purchase of a hunting package. A similar interpretation could be made for a health and fitness camp, the participants at the camp have purchased the service or activity and the accommodation/guest room is part of the package and not a room for hire as specified in the rule.

When faced with challenging interpretations since each situation may have nuances or if you are uncertain, contact your District V or the Lodging Program for assistance.

## **Resources**

1. District V Contact Information  
EPHS Tech Support Map found in Section 9.1 of the Environmental Health Operational Guidelines, or <http://health.mo.gov/atoz/ehog/index.php>.
2. Lodging Program Contact Information  
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3. Lodging Licensing website: <http://health.mo.gov/safety/lodging/index.php>
4. Environmental Health Operational Guidelines: <http://health.mo.gov/atoz/ehog/index.php>