



Why We Charge - Valet Service Parking Fee Information

Eagle Parking believes in providing excellent customer service and treating our employees fairly by paying them in accordance with the Department of Labor laws and the Fair Labor Standards Act. The valet service fee ensures our company is able to legally pay our employees and their payroll taxes. We work hard to keep the fee as minimal as possible while providing our guests with quality service.

Please read the articles below if you have any questions regarding the Department of Labor Laws and the Fair Labor and Standards Act. We truly appreciate you taking the time to read this information. Please feel free to fill out the feedback section on our website if you have any questions or comments. Thank you for your interest in Eagle Parking.

Sincerely,

Jared Krumper
Owner
Eagle Parking

Curbside Service To A Lawsuit

By Stanford G. Wilson and Douglas J. Miller

To give a few dollars or not – that is the question asked by satisfied patrons when exiting their favorite gourmet eatery and awaiting the “complimentary” curbside arrival of their car. Unbeknownst to the customer, both the restaurant and the valet service could have significant and potentially expensive legal obligations to the valet driver. Indeed, those same valet drivers are now increasingly filing complaints with departments of labor and in court to recover wages.

It is an almost universally accepted practice that valet drivers are treated by restaurants, or the valet companies to whom the restaurant has outsourced the service, as independent contractors. These individuals will then work for most (in some cases all) of the tips received from patrons, and they may earn a significant income by doing so. While this may seem normal, as it was the industry standard for many years, restaurants and valet providers which use this structure likely are violating the Fair Labor Standards Act (“FLSA”).

First and foremost, no matter how valet companies structure their relationship with the parking attendants, such individuals usually are employees of the valet company, not independent contractors. If the parking attendants are deemed employees, not independent contractors, the FLSA requires payment of minimum wages and overtime. Restaurateurs should take heed of how the valet service pays its drivers, as there is a strong argument that you are joint-employers of the parking attendants with the contracted valet company and may be responsible for unpaid wages to the valets.

Plaintiffs’ attorneys are salivating over this unappetizing trend in states like Florida, Texas and Arizona. American Valet and Limousine Inc., located in Phoenix, paid approximately \$80,000 in penalties after the Department of Labor accused the company of willful violations of both the minimum wage and overtime provisions of the FLSA. Five Star Valet Inc., which provides valet service to restaurants in Houston, agreed to pay current and former valet service workers to resolve violations of the overtime provisions of the FLSA. In December 2008, three valet companies were sued for unpaid wages in a Florida federal court because the valets were treated as independent contractors and did not receive all wages required by the FLSA. A similar lawsuit was filed against three different valet companies in the same Federal court in January, 2009.

This trend is moving toward Georgia and the Carolinas; therefore, it is critical for valet companies and restaurants to make changes now to ensure parking attendants are paid in accordance with the FLSA, as the failure to do so can have burdensome and costly consequences. To avoid these issues, many valet companies are implementing a small parking fee for each car, which normally covers the valet company’s overhead and the wages of the valets. The valets should be allowed to retain all tips.

This is a very general description of the law and potential solutions to the issues presented by valet parking. If you face these issues, please contact Stan Wilson or Doug Miller for assistance in structuring your pay practices. ☺



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Restaurateurs must be in the driver's seat when it comes to valet-parking services

By DINA BERTA

ATLANTA (June 22, 2009) -Given an increase in the number of wage-and-hour disputes involving valet-parking companies, restaurateurs need to protect themselves by reviewing the practices of the services they hire, according to legal experts.

A restaurant must be certain that its valet service complies with the FSLA, and that the restaurant would not be accountable for any labor violations involving drivers.

Traditionally, valet services have treated the valet drivers who park restaurant customers' cars as independent contractors who work solely for tips. But that tradition runs afoul of the Fair Labor Standards Act, which classifies drivers as employees of the valet companies, entitled to a minimum wage and overtime pay.

Since the FSLA was revised in 2004, the number of wage-related complaints filed against valet services has increased, often resulting in settlements with the U.S. Department of Labor Wage and Hour Division in which valet companies cough up thousands of dollars in back pay and overtime to drivers.

A Phoenix valet company paid nearly \$80,000 in penalties as well as \$66,947 in back wages to employees, and a Houston valet service paid more than \$45,500 in back pay in 2005. Last year, drivers sued three valet companies in Florida for unpaid wages and a similar lawsuit was filed, also in Florida, against three different valet companies in January.

Some restaurants that hire valet companies are being dragged into court by plaintiffs' lawyers, who view the restaurateurs as co-employers of the valet drivers, said Stanford Wilson, an employment lawyer with the Elarbee Thompson law firm in Atlanta.

"We've seen cases where the restaurant is sued along with the valet service, but those are usually settled," Wilson said. "We've not seen a situation go all the way through the courts and an establishment is found legally responsible. But just the fact that you may have to defend your company means you need to make sure you set up the proper relationship with the valet service."

One Atlanta-based multiconcept restaurant company recently made changes to its contract with a valet service to make certain drivers were being paid properly and that the restaurant would not be held accountable for any labor violations involving drivers.

"The valet is the extension of the restaurant's hospitality and the first customer service [patrons] encounter," said the director of operations for the

company, who spoke on the condition of anonymity. "We felt it was important for the valet service to be in compliance with the fair labor laws."

Wage-and-hour laws benefit valet drivers, so it behooves a restaurant company to make sure they are being paid properly as employees, Wilson said.

"In the past, valet companies may not have considered these people to be true employees, but [contractors] working for tips," he said. "But they have an obligation to pay the minimum wage in reality. Most are not individual contractors."

Before hiring a valet service, a restaurant operator should make sure it is a legitimate company, Wilson said.

"There are ways to protect you, contractually," he said. "If there is any dispute with their employees, the valet companies should agree to indemnify the restaurants-hold them harmless [in a lawsuit]."

Restaurant owners also should make sure a valet company has insurance and that it agrees to abide by all applicable laws, Wilson added.

"Ask the operator of the valet, 'Do you comply with FLSA?'" he said. "'Do you pay the minimum wage? How are you set up?' If they are not quite lawful but you say, 'OK, I understand the risk,' and move forward with them, then the restaurant is probably in trouble. They knew and they participated."-
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Article Located at "National Restaurant News" Website:

http://www.nrn.com/landingPage.aspx?coll_id=632&menu_id=1408&globalMenuTab=-1