

The Legal Environment of Business

Michael Bixby · Caryn Beck-Dudley · Patrick Cihon

Fourth Edition



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I would like to dedicate this book to my students and my family.
My students continually keep me alert and “on my toes” with their thoughts, comments, and ideas. The support and encouragement of my family-my wife Sharon, our sons Daniel and Matthew, my sister Norah, and my late father, Meredith Bixby, have provided me with the energy and persistence needed to complete this book.

MICHAEL BIXBY

This book is dedicated to my wonderful and supportive husband Lynn and to my engaging children, Michael and Stacia. I also very much appreciate the hard work and friendship of my two co-authors and the support of my colleagues.

CARYN BECK-DUDLEY

In appreciation of my co-authors, other friends and colleagues, my family, and dedicated to the memory of my parents, John E. and Marian M. Cihon.

PATRICK J. CIHON

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PREFACE

Welcome to the study of legal issues in business. Just as business students must learn the basic principles of accounting, marketing, economics, finance, management, statistics, and information systems, so must they master the fundamental knowledge of critical legal and regulatory issues affecting business. As a result of the authors' combined 60 years of experience in teaching and practicing law, *The Legal Environment of Business* presents both practical and academic insight into the primary legal issues that businesspeople need to understand. We believe this text is one that students will read, understand, remember, enjoy, and most importantly, use in their present or future careers.

The *Legal Environment of Business* will not create lawyers, nor should it. Rather, it will help prepare businesspeople to recognize and avoid legal problems. If each student can avoid one legal problem in the future because of something learned here, this book will have made a worthwhile contribution to the student and to society. Our text will help students address legal problems when they arise, know when to call a lawyer and what to discuss, and know how to participate in the solutions to legal problems.

This new edition of the textbook incorporates several features not present in previous editions. Every chapter has been updated, to include the latest cases and other legal developments. In addition to the edited cases, each chapter now contains one longer case report, written totally “in the language of the court.” Although the case has been shortened, the entire excerpt contains only the actual words of the court—none have been re-written.

Since the last edition of the book, the business world has been rocked by the accounting and financial scandals involving Enron, WorldCom and many large corporations. Congress enacted the Sarbanes-Oxley Act in response, which added significant new duties and responsibilities to corporate officers and directors. These topics are fully explained and explored in this new edition. Many new boxes contain thought-provoking Ethical and Social Issues, and several others highlight important “International Aspects.” A new chapter “Cyberlaw and Intellectual Property” has been added which explores in detail the rapidly changing world of intellectual property, including legal issues involving the internet, world wide web, as well as such important current topical issues as downloading of music, piracy of intellectual property, data privacy and more. Many of the cases in the previous edition have been replaced by newer cases, while retaining the classic cases necessary to fully understand the legal principles. Also approximately $\frac{1}{2}$ of the chapter ending questions are new.

TARGET AUDIENCE

This textbook is primarily designed for business students who are beginning their study of law. Every aspect of this book has been developed to maximize the “real world” nature of the various legal principles presented. We have tried to take complex material and break it down into bite-sized chunks that can be easily digested. We are attempting to speak directly to the non-law student in a common-sense, practical manner. The coverage of important legal topics, while current and comprehensive, is clear and readable.

CONTENT COVERAGE AND ORGANIZATION

The Legal Environment of Business contains comprehensive coverage of private and public law topics. When possible, we have grouped subjects together in a manner that emulates their evolution as legal principles. For example, our discussion of contracts is followed by the discussion of laws of sales, warranties, and product liability, which represent modern adaptations and expansions of the earlier theories.

This practical approach allows us to demonstrate how and why topics in the law change over time. By doing this we better prepare students to become businesspeople who, by virtue of their understanding of legal evolution, are better prepared to anticipate and plan for future changes.

Among the key topics we address are the following:

- Judicial and alternative forms of dispute resolution (Chapters 2 and 3)
- The Constitution and business (Chapter 4), including recent court decisions that address the “Federalism” cases
- International Law (Chapter 6), including detailed discussions of the European Union, NAFTA, and WTO
- Business ethics (Chapter 7)
- Agency and business organizations (Chapters 8 and 9), including treatment of limited liability partnerships and limited liability companies (Securities Law Chapter 10)
- Business torts and business crimes (Chapter 11)
- Contracts (Chapter 12)
- Real, personal, property (Chapter 14)
- Cyberlaw and Intellectual Property (Chapter 16)
- Environmental law (Chapter 15)
- Employment law (Chapters 20, 21, 22 and 23), including extensive coverage of contemporary legal issues in employment, equal opportunity in employment, and labor management law and regulations.

STUDENT-ORIENTED FEATURES

The Legal Environment of Business contains the following features to help students better understand and retain the material:

Learning Objectives and Outlines begin each chapter and help students organize the chapter content and highlight key content.

Key Terms are defined in the margin as they are introduced in the text and are included in the glossary at the end of the book.

Social/Ethical Issues boxes appear throughout the chapters and raise questions concerning current social and ethical controversies in the legal environment of business. These questions require critical thinking and analysis and are good vehicles for class discussion.

“*A Memo from the Legal Department*” boxes offer practical advice concerning legal subjects covered in the chapters.

“*In Consultation*” features appear periodically throughout the text and offer students an opportunity to put themselves in business situations dealing with realistic legal issues.

Readings and Cartoons from *The Wall Street Journal*, *U. S. News and World Report*, *EPA Journal*, and other sources help to explain the law and demonstrate its relevance to the business world.

Cases were chosen and edited for each chapter (three and four per chapter) on the basis of relevance, interest, and when possible, currency. While some cases are very recent, others represent classic cases. Each case is one to two pages long and has a Facts/Decision/Case Questions format. The case questions raise several legal and ethical questions designed to assist students in analyzing the case. The language used in most of the court cases (while often the court’s own) is edited to ensure it includes only words and phrases explained elsewhere in the chapter. As mentioned earlier, one case in each chapter is longer, and contains only the language of the court, in order for students to have the opportunity to look more closely and in depth at the legal reasoning process.

End-of-Chapter Problems raise both legal and ethical issues. Questions often arise from actual court cases, and in those cases the citations are included for optional reference.

Practical Exercises offer a unique learning tool. One of these exercises appears at the end of each chapter and allows students to either independently or collaboratively analyze a hypothetical situation based on the material presented in the chapter. Use in our own classrooms has shown that these “learning-by-doing” exercises can significantly aid students’ retention of the material.

AACSB STANDARDS

The American Assembly of Collegiate Schools of Business (AACSB) standards state that the undergraduate and MBA curricula of all business colleges should provide the following:

A(n) understanding of perspectives that form the context for business. Coverage should include

- Ethical and global issues
- The influence of political, social, legal and regulatory, environmental, and technological issues
- The impact of demographic diversity on organizations

How does *The Legal Environment of Business* deal with these issues? First, we thoroughly cover ethical and global issues in law. Chapter 6, *International Law*, discusses the intricacies of doing business beyond the borders of the United States. Chapter 7 is dedicated to ethical theories and their relevance to corporate decision making. This chapter is practical in nature and shows students how to analyze and apply ethical principles to real business situations. Furthermore, both international and ethical issues are addressed in boxed features and cases within the chapters, as well as exercises at the end of each chapter.

Second, political, social, legal and regulatory, environmental, and technological issues are all discussed within relevant chapters. The use of an “evolution of legal topics” organization uniquely demonstrates the interrelationship of law and these other societal influences. One new chapter is devoted solely to Cyberlaw and Intellectual Property Issues.

Finally, our emphasis on the practical application of law to the “real world” along with a complete examination of equal opportunity laws and international issues will help in sensitizing students to issues involving diversity within organizations, and differences around the world. In addition to coverage within the text narrative, issues involving diversity and international issues are presented in readings, feature boxes, and cases.

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