

CHAPTER 1 BUSINESS LAW

Chapter Commentary

The law shapes many aspects of our daily lives and it is a good beginning for this textbook to discuss with students what they think about how the law influences our day-to-day lives and society in general. Students may give examples from their personal lives on how the law has affected them or someone they know.

In the chapter opener, the focus is on information and the sharing of information. Students should understand the importance of documentation and records to a business; that an employee has a personal responsibility to protect an organization's information, just as the organization has a responsibility to protect an employee's information. Discussions surrounding a business's privacy policy and what it should entail allows the student to think about their conduct when employed.

As a theme throughout the textbook, risk management is always present for class discussion. As stated above, the importance of understanding the law in order to prevent legal battles down the road as well as the importance of ethical behavior can be focused on.

It is great when students understand the types of law, the sources of law and the areas of law in order to gain an understanding of what they need to know as a business person. Of particular attention, a concentration on administrative law and how it influences business decisions is helpful. Have students understand the ease in obtaining the regulations and 'rules' of their industry and the importance of that knowledge in helping them in the future. A fun and interesting segment for discussion is on white collar crimes. With so many television shows like *Suits*, *White Collar*, and *The Good Wife*, just to name a few, students will have plenty of examples of white collar crimes!

Naturally, how laws are made is an important part of understanding our legal system. By going through the chart found in Figure 1.2, students will see how a federal law is made and by visiting their respective provincial justice websites, information can be obtained on how provincial laws are made.

The court system for each province is somewhat complex in that there are several levels of courts that deal with different issues. It is important to review your provincial or territorial (and other provinces too!) court system for the names of the superior courts. At a federal level, an understanding of the Federal Court and Supreme Court is important.

The concept of ADR (Alternative Dispute Resolution) will provide solid conversations on when and why a person or business would use it. You can stress that business people should always look at ADR as a way to resolve an issue.

You will note that in this chapter as well as the chapters to follow, many will be referring to the Pandemic or COVID-19. Because of the relevance to businesspeople, employees,

governments, etc., we believe discussions around pandemics will be thought provoking and a great learning and planning opportunity.

Discussion Forum Topics

Increasingly discussion forums are being incorporated into courses to foster discussion between students that expand or augment that which has already taken place in class.

The following are suggested discussion board topics for this chapter, along with a suggested establishing paragraph.

For some helpful hints on online discussion forums at the post-secondary level, we refer you to the following website:

<https://uwaterloo.ca/centre-for-teaching-excellence/teaching-resources/teaching-tips/alternatives-lecturing/discussions/online-discussions-tips-for-instructors>

You are required to make at least two thought-provoking postings each week to help facilitate the discussion. We hope this will ensure a lively discussion.

Please remember this is not a writing assignment but a conversation, please be respectful of the opinions of others.

1. Business Law happens all around us. Please start any discussion you like about current events occurring in the area of business law.
2. Information about Business Law is readily available online. Find and post a link that you think is useful for finding and understanding Business Law. What about this site makes it useful?
3. Watch the following video:

http://www.ted.com/talks/lang/eng/alan_siegel_let_s_simplify_legal_jargon.html

What challenges does the speaker claim that businesses face from the law? Discuss whether his three requirements could be applied to Canadian law.

4. From this Chapter , I want you to discuss the following questions:
 - a. What is the most important thing you learned and;
 - b. What is the most challenging concept you learned in this section.

Flipped Classroom

The Flipped classroom is an opportunity for students to prepare for class and for the instructor's

to expand the students' learning through various activities and discussions. By reading the textbook, watching a YouTube video, or completing a short assignment prior to their class, the discussions and activities in the classroom become more robust and command an interesting learning experience.

Please note that not all pre-class activities are required. The authors have prepared a sample of items that can be provided to the student during a four-day, one hour course. Instructors may choose the items they feel are appropriate for their classroom time allocation and their expectations on out-of-classroom time.

In anticipation of Chapter 1 – Day 1, students should:

Preparation:

- Read Section 1.1 and review the Privacy Toolkit for Businesses and Organizations found at https://www.priv.gc.ca/information/pub/guide_org_e.asp.
- Search online for information on Privacy policies of businesses or government organizations. Bring a privacy policy you have found (or a sample) to class.

In class:

- Discuss what type of information is important to you as an employee?
- Review students' privacy policies they have found.

In anticipation of Chapter 1 – Day 2, students should:

Preparation:

- Read Sections 1.2, 1.3 and 1.4.
- Review and be ready to discuss situations where documentation is important.
- Find examples of where a business made a risky decision and turned into a legal issue
- Be prepared to discuss ethics and the law – research one recent case that pertained to ethics.

In class:

- Discuss why documentation is everything
- Discuss risk management and discuss the cases students brought to class about risky decision making
- Discuss ethics and the cases the students brought to class about unethical business behavior.

In anticipation of Chapter 1 – Day 3, students should:

Preparation:

- Read Sections 1.5 and 1.6.
- Discuss the article: 20 Weird Canadian Laws: [Oh... Canada? Here are 20 weird Canadian laws that you never knew \(curiosity.com\)](https://www.curiosity.com/articles/20-weird-canadian-laws/) and see if you can find other strange Canadian laws.
- Answer Questions 2-4 of the Review at the end of the Chapter.

In class:

- Review the concepts of public law and private law, the areas of law and the types of cases that exist in these areas.

- Discuss white collar crimes and how they affect businesses and individuals.
- Discuss what strange Canadian laws students have found. How were those laws made?
- Look at Case #1 and Case #2 of the Review at the end of the Chapter and discuss.

In anticipation of Chapter 1 – Day 4, students should:

Preparation:

- Read Section 1.6, 1.7 and 1.8
- Watch the YouTube “How a Bill becomes Law” at https://www.youtube.com/watch?v=x_Vm7oaoOuU
- Watch the YouTube “Civil Claims: What to do in Court (Tips and Information)” found at https://www.youtube.com/watch?v=VVA5QZc_2HE
- Watch the YouTube “Intro to Cdn Legal System” found at <https://www.youtube.com/watch?v=-IyzMpDMSQQ>

In class:

- Examine the process of how laws are made.
- Discuss the litigation process and go through the steps with a case.
- Discuss the various courts and the type of cases that go before these courts.
- Discuss ADR and why it is important for businesses and individuals.
- Short quiz.
- Provide answers to the crossword.

HELP

The fact situations described in the **Help!** feature of the chapter can be used to assist students in developing a logical, progressive approach to the analysis of a fact situation and identification of issues involved in the law of tort.

Based on the information and definitions provided in the chapter, the students could be asked to:

- a) identify and describe the action that has been committed by the individual or business that has caused harm to another party;
- b) determine whether the action was intentional or unintentional, and name the type of tort that has taken place (for example: defamation).

The fact situations can be further used to review and/or initiate discussion amongst students about the various component parts that make up a legal action based on tort.

The following are some suggestions for this purpose along with references to the sections in the text where the issues have been addressed.

As a businessperson, you may experience any of these scenarios below:

- **HELP! I just started to work in a business and I'm not sure what I need to know about the law?**

A discussion with the students could be centered on the need for an employee to be not only aware of the statutes, regulations and rules that apply to an industry or business in which he or she is working, but that employees and businesses are required to conduct their commercial affairs in compliance with them. The discussion could be broadened to look at how laws help direct our social policy to ensure a fair society, achieve stability, and create a country's success on many levels – political, social, cultural and economic.

- **HELP! I hear about lawsuits all the time. How do I protect my business? How can I avoid these risks?**

Along the lines of the response to the Help situation above, the students could be invited to explore how an awareness of the statutes, regulations and rules that apply to an industry or business might help a commercial enterprise to manage risk and protect the business from lawsuits. The connection between knowledge and risk management could be underlined by using a particular business, such as meat-packing, and considering what the impact might be if there were no regulations on that industry. This could be followed by a discussion premised on the fact that there are regulations and what might happen if a business was unaware of the regulations, both from a regulatory enforcement standpoint, and from any potential civil actions that might arise.

- **HELP! After hearing about all the business scandals, I'm wondering just how ethical a business really needs to be?**

The law is very involved in the ethical decisions of a business and the impact on employees, shareholders, suppliers, customers and society in general. Asking students to provide examples of what they would consider ethical and non-ethical business behavior could be used as a starting point for discussion purposes to reinforce the need for a business owner to be aware of the legal and financial ramifications of ethical decisions made in the process of carrying on operations.

- **HELP! My boss said we need to file a claim against a business that hasn't paid their bill. How do I do that? What do I need to know and do?**

This situation presents an opportunity to introduce the concept of a contract, its breach, and the process of enforcing its terms or seeking damages (reference can be made to the creation and breach of a contract being covered in Chapters 5 and 7 respectively). The discussion should include the various courts in the student's province or territory in which an action for damages might be started and their monetary jurisdiction.

- **HELP! What are government regulations and what do I need to know about them?**

The Canadian Radio and Television Commission (CRTC) might be used to introduce a discussion on the concept of government regulations and administrative law. The CRTC has been active in the areas of broadcasting, internet services, and mobile phone providers with which students will probably have some familiarity. The discussion can be used to underscore the fact that there are various types of laws, which provide regulations and rules about how individuals are to conduct themselves and how businesses are to conduct their commercial affairs.

- **HELP! What kind of planning should I do for my business in anticipation of a pandemic?**

Answers should include looking at the various provincial and federal government websites for up-to-date information regarding restrictions, a section in the organization's manual regarding Pandemic Preparedness and ensuring that the OH&S committee has also prepared documentation in the event of a lockdown, etc.

For Review

Questions

1. What is the importance of understanding law to a business today? **(LO 1.1)**

Students should indicate that understanding law in business today helps them make informed decisions and what laws and regulations pertain to their businesses. Knowledge of business law provides guidelines for businesses surrounding their legal and ethical responsibilities to the individuals they interact with, like employees and clients.

2. What is common law? What is legislative law? Are there other names for these laws? **(LO 1.5)**

Common law is also called precedent law is based on the decisions of similar cases and is not criminal law. Legislative law, or statute law, is made by bodies of government.

3. Define the areas of law. What is the difference between them? **(LO 1.5)**

Areas of law would be criminal law (between the government and the person/business and generally based on the Criminal Code of Canada); constitutional law (between our Charter of Rights and Freedoms or the Constitution Act and individuals or organizations) administrative laws (laws and regulations set out by organizations), tax law (issues dealing with Canada Revenue Agency and federal income tax)

4. How would you compare a criminal case to a civil case? **(LO1.5)**

A criminal case is where the defendant is charged under the Criminal Code of Canada for an offense and is charged by the Crown. A civil case is between individuals or businesses or organizations.

5. Why would the parties in a civil case want to pursue Alternative Dispute Resolution? **(LO1.8)**

Students should answer with the following:

- ☐ *Saves money—no costly court fees*
- ☐ *Saves time—no lengthy trial process*
- ☐ *Creates goodwill—preserves diplomatic relationship between the parties because they work together toward a solution both sides can live with*
- ☐ *Increases compliance—parties are more likely to comply with a mutual decision*
- ☐ *Maintains privacy—sessions are not open to the public*
- ☐ *Reduces stress—because of reasons listed above!*

6. Why is it important for a business to develop a privacy plan? **(LO 1.1)**

A privacy plan allows a business to protect the information of the public, their business and their employees and clients. It also provides guidelines for businesses surrounding their legal and ethical responsibilities to the individuals they interact with, like employees and clients.

7. What is meant by the term “risk management”? **(LO 1.3)**

Risk management is a positive management practice that avoids consequences that affect the welfare of the business.

8. Vandals have destroyed a bench in the park owned by the town. Is this a matter of public or private law? **(LO 1.5)**

Vandalism would be a matter of public law as it criminal offense under Section 430 of the Criminal Code of Canada.

9. Explain whether the enforcement of the following organizations’ rules would involve administrative law: **(LO1.5)**

- a) The Liquor Control Board – *administrative law*
- b) The Tropical Fish Breeders Association – *not administrative law*
- c) The Institute of Law Clerks – *not administrative law*
- d) The Canadian Radio-television and Telecommunications Commission – *administrative law.*

Activities

1. Interview a manager of a local small or medium business to understand how they deal with legal issues. What issues do they see a lawyer about? What should a businessperson know about government acts and regulations? (LO1.1)

Answers will vary depending on the interview.

2. Go to the Government of Canada website and explore the *Constitution Acts* of 1867 and 1982, which includes the *Canadian Charter of Rights and Freedoms*. Familiarize yourself with the Acts. Create a table that outlines the parameters of both acts. (LO1.6)

Tables will vary but should provide the main points of both 1867 and 1982.

3. Individually, or in a small group, create a hypothetical case where:
 - a) A businessperson is charged under the *Criminal Code of Canada*
 - b) A business is sued under the *Canadian Charter of Rights and Freedoms*
 - c) A business is sued in a civil litigation matter

In each of the above, outline the “facts” of the case and how it would proceed. (LO1.6)

Cases will vary by person or group.

4. Research the Federal Court of Canada and discuss what it is and the types of cases it hears. (LO1.7)

Case should focus on issues dealing with immigration and taxation at a minimum.

5. Look in local, regional, and national newspapers to find an article about a case of significance to that area or the country. Discuss this with your classmates. (LO1.7)

Cases will vary.

6. Research the various situations where two parties might decide on ADR. (LO1.8)

Students should report on situations where the issues are minimal and the groups are amicable to a resolution.

7. Describe the purpose behind a company developing a privacy policy and list five key elements that you believe should be included in that policy. (LO1.1)

*Students should indicate the importance of creating rules so that employees are ‘on the same page’ and that individuals will not make personal decisions about privacy.
Answers will vary regarding key elements.*

8. Your company’s chief financial officer, whom you report to, has asked you to revise the production numbers for the past month so the financial statements will look better for the

shareholders' meeting. You recently bought a house and don't want to lose your job, but you are not comfortable falsifying the numbers. What are the steps you might take in dealing with this situation? (LO1.4)

Answers will vary but should include a discussion on ethics and legal responsibilities. Some of the steps students might suggest are:

- *asking the chief financial officer to clarify what you are being asked to do in terms of revising the numbers,*
- *indicate your discomfort with what is being requested,*
- *checking if the company has a whistle blower policy that protects the anonymity of the person providing the information,*
- *speaking to the chief executive officer or president of the company,*
- *speaking with a member of the audit committee of the board of directors if there is one, or, if not, with a member of the board of directors,*
- *in the event the revisions constitute fraud, then, as a last resort, the fraud division of the local law enforcement agency,*
- *keep a personal diary or memo recording the original request and each step taken and individual that you have spoken to and their response.*

9. Prepare a Pandemic Preparedness Plan for a small business with five (5) employees. What would be contained in it? How would it be communicated?

CASES FOR DISCUSSION

Case #1

Monique and Carlos are opening a natural food store in the upcoming year. They are currently working through their business plan but now must decide what steps they need to take regarding their legal responsibilities in opening such a business in Saskatoon, Saskatchewan. You have just been hired by Monique and Carlos and because you have taken a business law course, they are looking to you to provide some information and research on what steps should be taken before seeking legal advice, hoping to save some dollars.

When they say to you, legal responsibilities, what does that mean? What kind of research should you do to help them? How would you divide up the different areas of law that they should consider? Are there any specific statutes that they need to know about? In the training of their staff, are there any regulations that need to be addressed? (LO 1.5)

Answers will vary.

Case #2

Hadhira operated a business selling body lotions and creams. She would often display her products on tables set up on the sidewalk immediately in front of her store. To make her products more visible, she had strong floodlights attached to the top of the storefront which automatically came on when it began to get dark and were used to illuminate the tables on the sidewalk. On a Tuesday afternoon, it began suddenly to get dark and rain lightly, but Hadhira was busy inside the store and did not have an opportunity to get out and cover the tables on the sidewalk.

Unknown to Hadhira, a bottle of lotion had fallen onto the sidewalk and the contents had leaked onto the walkway in front of the table. As a pedestrian crossed in front of her store the floodlights came on suddenly and the pedestrian, briefly blinded by the lights, slipped on the spilled lotion. Hadhira came running out of the store as a man helped the woman who had fallen back to her feet. Hadhira heard the woman tell the man she was okay, only a bit shaken, and that it was her own fault for not looking where she was going. The rain had spread the lotion even further on the sidewalk so Hadhira quickly got a mop and cleaned up the mess. Meanwhile, the woman who had fallen limped off muttering about the bright spots floating in her eyesight.

If you were responsible for advising Hadhira at the time of this accident, what risk management actions would you recommend she take? ([LO 1.3](#))

The purpose behind this question is to encourage the students to review the potential legal fallout from the fact situation and then, having read the chapter's material on risk management, to come up with practical steps that could be taken by the business owner at the time of the accident that would assist with any legal issues.

Some examples of actions that students might recommend are:

- *have the business operator encourage the woman to come into the store, get her a chair to sit on and a glass of water to drink,*
- *get the woman's name and contact information,*
- *call a paramedic if necessary,*
- *take photos of the scene in front of the store and note the time, weather conditions, light conditions,*
- *take a photo of any injuries the woman might have, if she consents,*
- *if the woman is okay after some time has passed, have her sign a release or statement to that effect,*
- *take names and contact information of any witnesses who may have seen the woman slip and fall.*

Case #3

You are looking to explore the possibilities of opening a coffee shop across from the local college. Up until a few months ago, before COVID-19 came into our lives, it appeared to be a solid idea and you had already begun your business plan. Now that the pandemic has been with us for many months, what should you include in your business plan that deals with pandemics (now and in the future)? How would you protect your employees? How would you minimize your risk? (LO 1.3)

Answers will vary but by researching federal and provincial websites for up-to-date information on risk management during a pandemic, students should obtain solid answers. A Organizational Manual and training for employees would help minimize risk.