

Essentials of Business Law, 2024 Release

INSTRUCTOR'S MANUAL

Chapter 1 Our System of Law

LESSON OVERVIEW

Part 1 of the text addresses the system of law, ethics, moral law, criminal law, tort law, constitutional law and administrative law. Chapter 1 deals with the system of law primarily in the United States—its relevance in today's world and impact of law in all facets of an individual's personal and career life. We will identify the principal sources of law in the United States—constitutional law, executive order, treaties, common law, precedent, case law, statutory law, and administrative law. The chapter examines the foundations of the Uniform Commercial Code in detail and lists the classifications of major laws. We will briefly touch upon the importance of moral law and legal obligations. Finally, the chapter describes the system of courts and the powers vested in the federal, and state supreme, trial, appeals and special courts. Instructors can test their students' learning using the end-of-chapter discussion and case study questions.

CHAPTER OUTLINE

- 1.1. THE LAW IN OUR WORLD
- 1.2. APPLICATIONS OF LAW
 - a. Personal Applications of Law
 - b. Business Applications of Law
 - c. Government Applications of Law
- 1.3. SOURCES OF LAW
 - a. Constitutional Law
 - b. Executive Orders
 - c. Treaties
 - d. Common Law
 - e. Precedent
 - f. Case Law
 - g. Statutory Law
 - h. Administrative Law
- 1.4. UNIFORM COMMERCIAL CODE
- 1.5. CLASSIFICATION OF LAWS
- 1.6. MORAL LAW
- 1.7. A SYSTEM OF COURTS
 - a. Court Jurisdiction
 - b. Federal Courts
 - c. State Courts
- 1.8. CHAPTER SUMMARY
- 1.9. CHAPTER ONE ASSESSMENT
 - a. Matching Legal Terms
 - b. True/False Quiz
 - c. Multiple Choice Quiz
 - d. Discussion Questions
 - e. Thinking Critically About the Law
 - f. Case Questions

- g. Case Analysis
- h. Legal Research

KEY TERMS

Key terms are listed at the beginning of the chapter, posted in the student textbook margins, and placed in bold in the copy. They are listed here for your quick reference.

- plaintiff
- defendant
- stare decisis
- common law
- precedent
- case law
- statutory law
- ordinance
- administrative law
- Uniform Commercial Code (UCC)
- moral law
- jurisdiction

LEARNING OUTCOMES

The chapter Learning Outcomes will help you and students discover the concepts and information that should be understood upon completion of the chapter. You may want to access the **PowerPoint (PPT) slides for Chapter 1** when you begin the study of the chapter and discuss each Learning Outcome. Each Learning Outcome will be covered separately in the Instructor Notes but are shown here in total as an overview of the sections being presented in Chapter 1. These slides should be used to reinforce the main points of the lecture.

After completing this chapter, the students will be able to:

1. Discuss the application of law in today's world.
2. Provide examples of how the application of law affects (a) one's personal or social life, (b) business or business operations, and (c) governments.
3. Identify the principal sources of law in the United States.
4. Explain the reasons for the preparation of the Uniform Commercial Code.
5. Cite and describe the major classifications of law.
6. Distinguish moral law from legal obligations.
7. Describe the structure of our federal and state court systems.

LECTURE OUTLINE

1.1. THE LAW IN OUR WORLD

Justice and law are hallmarks of a free society in today's world and in the preservation of property and personal rights. Every business day, in every city, town, and village in this country, courts are in session, juries are being selected, and attorneys are busy seeking favorable decisions for their clients, who might be either a **plaintiff**, the person who brings a lawsuit against another, or a **defendant**, the person against whom a lawsuit is brought or who is charged with a violation of the law.

The law presented in this text deals primarily with the general principles of law and their applications to business. Some chapters focus on personal applications of the law, however, and others treat ethical aspects of personal and business behavior.

1.2. APPLICATIONS OF LAW

Some aspects of the law apply to all persons, institutions, and organizations.

a. Personal Applications of Law

The law affects an individual in all aspects of his or her life. Examples include the following: (a) time is regulated by a law establishing standard time zones; (b) federal and state laws regulate the purity and wholesomeness of foods; (c) clothing labels are in compliance with governmental regulations; and (d) driving and speed limitations are regulated by state laws (e) establishing property rights to your home, automobile and other personal property.

b. Business Applications of Law

Every business must comply with many federal, state, and local laws that are primarily aimed at regulating business activity to meet a standard of society. A firm that wishes to set up business in a particular community may find laws that prohibit such activities. For example, local zoning ordinances might prohibit the operation of a noisy factory in a residential area or type of signs, parking spaces, etc.

c. Government Applications of Law

Legislatures at all levels of government pass many laws that apply only to businesses and individuals, but some laws apply specifically to governments; what they may do or not do.

1.3. SOURCES OF LAW

The ever-changing body of law that affects all persons in our country has arisen from a number of sources. As a result, laws sometimes conflict with one another requiring courts to sort out such conflicts.

a. **Constitutional Law**

The principles and ideals that protect individual liberty, property and freedom are incorporated in the Constitution of the United States (the federal Constitution). This historic document from 1789 gives the federal government certain reasonable powers and, at the same time, clearly limits the use of those powers. In addition, each state has a constitution of its own that gives certain powers as well as restrictions to the various levels of government within that state. Like the federal Constitution, state constitutions provide safeguards for the rights of individuals within that particular state.

b. **Executive Orders**

An executive order is a legally binding directive issued by the President of the United States pursuant to the authority of a federal law with the intent to change the manner in which federal agencies and officials implement statutes and to improve the operating practices of the federal government.

c. **Treaties**

A **treaty** is a written agreement between two or more countries that serves to establish terms of an international relationship. Treaties become legally binding federal law when approved by two-thirds of the Senate.

d. **Common Law**

The practice of relying on previous decisions is known as *stare decisis*, which means “to stand on decided cases.” Arising out of collective decisions of courts, it is often referred to as “judge made” law. The English system is known as the **common law** and still influences legal decisions in the United States today.

e. Precedent

A **precedent** is a court decision on which later courts rely in similar cases.

Whether a court follows a precedent, or decides to overrule it, depends on the court that has ruled on the case and whether the previous case was decided by the highest court in the same state. While precedent is usually followed, especially at the Supreme Court level, circumstances in society change and a later court may reconsider and overturn precedent establishing a new one.

Court decisions are recorded in writing and published in books called reporters.

Each case decision is identified by a specific citation, which includes the names of the parties involved followed by the volume number, the name of the reporter, and the beginning page number of the case decision.

f. Case Law

An existing statute or an accepted precedent may be based on outmoded standards of justice. In such cases, a court may disregard earlier interpretations of a statute or a principle of common law, or it may interpret them differently. The court's decisions in these cases influence later cases because they, too, become precedents that may be followed in similar cases. The effects of these decisions have been called **case law**.

g. Statutory Law

The laws passed by Congress and by state legislatures are called statutes, and the field of the law that deals with these statutes is known as **statutory law**. A law that is passed by a local government, such as a city council, is often called an **ordinance**. A key element is that all statutes must have a basis in the constitution. Ordinances must have basis in their state constitutions.

h. Administrative Law

Administrative law is the body of rules, regulations, and decisions created by administrative agencies. The practice of establishing specialized administrative agencies has several advantages. Administrative agencies include federal agencies such as the Federal Trade Commission or the National Labor Relations Board, state agencies such as public service commissions, and local agencies such as boards of health are able to specialize in the topic or area of law governed by

statute. These agencies have in common the authority to establish rules that have the force of law, to maintain “courts” (administrative law courts) that are often called appeal boards, and to conduct “trials” that are often called hearings.

In the federal and most state systems, decisions of administrative law courts may be appealed directly to courts of appeals or supreme courts.

1.4. UNIFORM COMMERCIAL CODE

When business was conducted with customers in many states, individuals had to know the law in all of them. While the country had “interstate commerce” throughout its history, the vast expansion of business and consumer transactions after World War II called for a more common approach among the states. To solve this problem, the **Uniform Commercial Code (UCC)** was completed in 1952 by the National Conference of Commissioners on Uniform State Laws. The UCC is a set of laws that govern various commercial transactions and are designed to bring uniformity to the laws of the states.

1.5. CLASSIFICATION OF LAWS

The various laws, regardless of origin, may be grouped into several broad classifications, each of which represents a legal specialty.

- i. *Constitutional law* is the study of the federal Constitution, (and state constitutions) its interpretation by the federal (or state) courts, and its relationship to existing laws.
- ii. *Civil law* is the study of the rights and obligations of individuals and includes the law of property, the law of contracts, and the law of torts.
- iii. *Criminal law* is concerned with acts against society (criminal acts) and the regulation of criminal activity.
- iv. *Administrative law* is concerned with the conduct of governmental administrative agencies and their powers of regulation.
- v. *International law* is concerned with the conduct of nations in their relations with other nations.

1.6. MORAL LAW

Moral law is the “law” concerned with the unenforceable obligations that people have to one another as viewed by society. Many legal obligations are based on moral obligations, but not all moral obligations are legally enforceable; a person’s conscience is often the only means of enforcement.

1.7. A SYSTEM OF COURTS

In this country, courts and governmental agencies have been established to administer the law. The federal and state constitutions and the entire body of written law would be of little value to individuals and businesses if there were no provision for enforcing the law. Police alone cannot fulfill this function. The federal and state constitutions provide for the establishment of a system of courts that ensure citizens’ rights to due process, fair hearing and enforce federal and state statutes.

a. Court Jurisdiction

The authority or power of a court to hear cases, as granted by a constitution or legislative act, is known as the court’s **jurisdiction**. The word comes from the Latin “Juris” (the law) “diction” (to hear). A key element in a national and global business environment is which court has the power to hear which disputes. A court has original jurisdiction if it is authorized to hear and decide a case when it is first presented. If a court has the power to review the decisions of another court, it has appellate jurisdiction (the authority to hear appeals). Courts that are given the power to hear only certain kinds of cases have special jurisdiction such as the family courts, traffic courts, and tax courts.

b. Federal Courts

The U.S. Constitution (Article III) provides for a federal court system: “The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish.” The court system that has developed has various levels. The Supreme Court of the United States is the highest court in the federal system. The federal district courts have original jurisdiction in cases involving federal statutes and in cases where the parties are citizens of different states and the amount involved is greater than \$75,000. Most appeals from the district courts go to one of the 13 circuit courts of

appeals. The federal court system also includes specialized courts that hear only certain kinds of cases. Three of these specialized courts are the U.S. Tax Court, the U.S. Bankruptcy Court, and the U.S. Claims Court.

c. State Courts

State court systems vary, but there are certain basic similarities in all state court systems. All states have general trial courts, which are courts of original jurisdiction, authorized to hear cases not otherwise restricted to specialized courts. If one of the parties in a case feels that they did not have a fair trial in the court of original jurisdiction, they can, with the aid of an attorney, seek an appeal in a state appellate court, which hears appeals from the trial courts. Some states (such as West Virginia) lack an intermediate appeals court, thus the cases go directly to the state supreme court.

INSTRUCTOR NOTES

A resulting answer or explanation is provided below for each Learning Outcome in Chapter 1.

LO1. Discuss the application of law in today's world.

Effects of law are felt throughout society, and apply to all persons, institutions, and organizations.

LO2. Provide examples of how the application of law affects (a) one's personal or social life, (b) business or business operations, and (c) governments.

Examples of how the application of law affects a person's personal and social life can be seen everywhere from the foods eaten, the medicines used, the goods purchased, to the clothing worn. Examples of how the law affects business can be seen in zoning ordinances, regulation of environmental pollution, and licensing laws.

LO3. Identify the principal sources of law in the United States.

The sources of law in the United States are the Constitution, executive orders, treaties, common law, precedent, case law, statutory law, and administrative law.

LO4. Explain the reasons for the preparation of the Uniform Commercial Code.

To address conflicts in business law among states, the UCC was prepared in 1952. The UCC is a set of laws that govern various commercial transactions and are designed to bring uniformity to the laws of the states.

L05. Cite and describe the major classifications of law.

Law in the United States is typically classified as constitutional law, civil law, criminal law, administrative law, and international law.

L06. Distinguish moral law from legal obligations.

Moral law is concerned with the unenforceable obligations that people have to one another; legal obligations are those required by enacted statutes and other laws.

L07. Describe the structure of our federal and state court systems.

The structure of the federal and state court systems includes courts of original jurisdiction (federal district courts and state courts) and appeals courts (federal circuit courts of appeals, the U.S. Supreme Court, state appellate courts, and state supreme courts (usual name of highest level court in most states)).

Chapter 1 Assessment Answers

a. Matching Legal Terms

- | | | | | |
|------|------|------|-------|-------|
| 1. g | 4. k | 7. m | 10. c | 13. l |
| 2. d | 5. j | 8. e | 11. o | 14. h |
| 3. n | 6. b | 9. i | 12. a | 15. f |

b. True/False Quiz

- | | | |
|-------|-------|-------|
| 16. F | 19. T | 22. F |
| 17. T | 20. T | |
| 18. F | 21. T | |

c. Multiple Choice Quiz

- 23. c
- 24. a
- 25. b
- 26. a
- 27. b
- 28. c
- 29. c
- 30. d
- 31. a
- 32. b

d. Discussion Questions

- 33. Without the system of laws that currently exists, society would be in chaos since the applications of laws consist of all areas of life: personal, business, and government.
- 34. The law affects your personal or social life by regulations set by the government. This includes items such as time, food, clothing, property rights, traffic laws, and laws set for personal safety. The law affects business through laws developed and enforced by federal, state, and local governments. This includes zoning ordinances, pollution, safe working conditions, and required licensing for professional services.

- 35. Federal and state constitutions and English common law.
- 36. Constitutional law, civil law, criminal law, administrative law, and international law. (See text for description.)
- 37. Many legal obligations are based on moral law, but not all moral law is legally enforceable; a person's conscience is often the only means of enforcement.
- 38. Common law is based on precedents and deals largely with torts. Statutory laws are those enacted by federal, state, and local governments. Both types of law are necessary to achieve the level of justice our society expects. Because statutory law cannot cover all facets of behavior, court judgments must often depend on the precedents of common law.

e. Thinking Critically About the Law

- 39. Protection of the rights and freedom of individuals and organizations is well established by the federal and state constitutions, by statutory law, and by common law. Most legal scholars agree that today's laws provide adequate protection of the rights of the individual; however, some students may have differing opinions.
- 40. Every business must comply with various federal, state, and local laws that are primarily aimed at regulating business activity. Some students may believe that safety regulations are needed for businesses. However, some students may have concerns with excessive government involvement in business activities.
- 41. Legislatures at all levels of government pass many laws that apply only to businesses and individuals, but some laws apply specifically to governments. For example, the federal government may pass a law that provides funding for building highways or for low-income housing. To ensure efficiency, the same law may require that states, counties, or municipalities maintain them.
- 42. A precedent is a court decision on which later courts rely in similar cases. In some instances, a court may be influenced by precedent; in other cases it may not. Whether a court follows a precedent, or decides to overrule it, depends on the court that has ruled on the case and whether the previous case was decided by the highest court in the same state. Decisions made by the U.S. Supreme Court, for example, must be followed by other courts. Sometimes a statute or a common law precedent may be difficult to apply to certain cases or, with the passing of time, may take on different meaning. An existing statute or an accepted precedent may be based on outmoded standards of justice. In such cases, a court may disregard earlier interpretations of a statute or a principle of common law.
- 43. Some students would argue that expense "padding" should be illegal since it is unethical. Other students might believe that such action should be handled by the affected business.

f. Case Questions

44. a. N b. Y c. Y
45. a. Y b. Y c. N
46. a. Y b. Y c. Y

g. Case Analysis

47. **Principle of law:** The statute prohibits the use or carrying of a firearm during a drug trafficking crime. “Carrying” includes all forms of possession.
Decision: Muscarello was found guilty.
48. **Principle of law:** The marriage license law in Connecticut recognizes the validity of a marriage even when some statutory licensing requirements have not been met.
Decision: No. The marriage remains valid.
(Note: In most states the law presumes that when a couple lives together for a number of years defined by the law, they have legally a “common law marriage”)

h. Legal Research

49. Students may point to examples that include one or more of the following areas of the law: contracts, property, tax, torts, trade, and transportation.
50. Students may navigate to Web sites that provide examples of small claims courts. Where these courts exist, there is usually a limit, ranging from \$1,000 to \$15,000, on the amount of the claim. The proceedings are usually quite informal, and the parties involved usually are required or encouraged to appear without lawyers to represent them.

BONUS ACTIVITIES

- Have the students, either individually or as a group, construct a diagram focusing on the relationships between the three branches of government: executive, judicial, and legislative.
- Divide the class into small groups and have them discuss how the applications of law affect a business. Lead a class discussion covering each group’s main conclusions.