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Licenses and legal requirements

UNIVERSITY OF IDAHO

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Many small businesses, including alternative farm enterprises, start a business and *then* go through the steps of researching and meeting local, state, and federal requirements. Getting into business this way is an organic process — you just grow into it. While it may seem easy, there are some real disadvantages to this approach, such as penalties for not meeting health inspection standards, not paying state sales taxes, or not conforming to city/county zoning requirements.

Play it safe! Avoid the pitfalls of being “underground” with your business. Taking care of all your license and permit needs before you actually start doing business will save you time and the frustration of finding things out by accident — while you’re purchasing supplies, applying for a loan, or filling out your tax returns.

Local, state, and federal requirements

Regulations concerning the operation of small businesses are made on the local, state, and federal levels; state and local rules apply to businesses within the particular state or locality, and federal regulations apply to businesses that operate across state lines.

A good place to start finding out about local requirements is your county clerk’s office, or if you’re within the city limits, the city clerk’s office. Local regulations vary, but most commonly you’ll find you need:

- To meet zoning ordinances that restrict certain commercial activities to certain areas. Guidelines may also regulate business activities, such as the use of advertising signs, lighting, parking, and business use of adjacent buildings and/or your home. Be sure you know about local ordinances before making a major investment in the business.
- To obtain a business license if you operate within the city limits.

- To obtain a building permit if you’re going to remodel your existing home or buildings, or erect a new one.
- To visit the county assessor’s office for help with commercial and farm vehicle licensing. The county sheriff’s office provides chauffeur’s and operator’s licenses.
- To obtain a certificate of assumed or fictitious name filed with the county clerk’s office if you give your business a name different from your own.
- To file articles of co-partnership if your business will be a partnership.
- To file articles of incorporation with the secretary of state if you plan to incorporate.

For information on types of business organization, see University of Idaho College of Agriculture publication CIS 939, *Business Ownership*.

Consumer protection

Federal laws aimed at protecting consumers include the Consumer Credit Protection Act; the Federal Equal Credit Opportunity Act; the Fair Credit Billing Act; the Fair Credit Reporting Act; the Pure Food and Drug Act; the Federal Food, Drug, and Cosmetic Act; the Fair Packaging and Labeling Act; and the Textile Fiber Products Identification Act.

The Consumer Credit Protection Act — This act is commonly called the Truth-in-Lending Act. If you extend credit to your customers, you will be affected by this law. It is intended to ensure a clear explanation of credit terms by requiring that you explain credit terms and interest costs so the consumer will know exactly what the credit will cost. If you offer credit to your customers, you probably should request the free pamphlet, *What You Ought to Know About Truth-In-Lending*, from any federal reserve bank



or from the Board of Governors of the Federal Reserve System, Washington, DC 20551.

The Federal Equal Credit Opportunity Act — This act is designed to ensure consumers are not denied credit for reasons of sex, marital status, age, race, religion, or national origin.

The Fair Credit Billing Act — This act provides consumers with an opportunity to dispute errors in billing statements and requires you to make an effort to correct such errors. It is designed to ensure that a consumer's credit report will confidentially contain only accurate, relevant, and recent information.

The Food and Drug Administration — The FDA is a federal agency within the Department of Health and Human Services. The FDA protects consumers by enforcing laws and regulations to prevent distribution of adulterated or misbranded foods, drugs, medical devices, cosmetics, and veterinary products. You may contact the FDA at 3010 West State Street, Boise, ID 83703, (208) 334-1319, or the regional office in Seattle, WA (206) 442-5300.

The Textile Fiber Products Identification Act — This act requires informative labeling and advertising of textile fiber products. Retailers, wholesalers, and manufacturers share the responsibility for seeing the fiber content of goods they sell is properly labeled and advertised. For example, this federal legislation applies if you advertise clothing or household fabric products in newspapers having interstate commerce, regardless of whether or not the goods are actually marketed across state lines. Therefore, manufacturers and retailers handling textiles have responsibilities under this labeling law.

The Magnuson-Moss Warranty Act — This act deals with product warranties. If you sell products priced above \$15.00 and you offer written warranties, you must conform to the provisions of the act and of the FTC rules. The FTC rules regulating the Magnuson-Moss Warranty Act are outlined in *The New FTC Disclosure of Written Consumer Product Warranty Terms and Conditions*, available from the FTC, Washington, DC 20580. The basic provision of the act requires warranties to be written in language that is understandable.

Compliance

What steps should you take to comply with laws protecting consumers? You should evaluate your business practices in terms of consumer rights and develop policies that ensure compliance with consumer protection legislation.

- Your business must not discriminate in granting credit on the basis of race, color, religion, national origin, sex, marital status, age, or because all or part of the person's income comes from public assistance programs.
- Your business must provide a statement of finance

charges in a uniform manner to all customers.

- Your business must notify all customers of the annual percentage rate.
- Your business must comply with all legal methods for resolving disputed billings and correcting statements.

Employee protection

Numerous federal regulatory agencies exist to protect and provide for economic security of employees. Some of the more important agencies you should be aware of are the Occupational Safety and Health Act (OSHA), the Fair Labor Standards Act, the Federal Social Security Act of 1935, and the Federal Civil Rights Act.

The Occupational Safety and Health Act — OSHA is one of the most important pieces of legislation protecting employees. It was written to make employers responsible for providing a safe and healthful workplace. OSHA maintains the health and safety of the workplace by establishing standards and conducting inspections of business premises. It is the entrepreneur's responsibility to know the standards and to ensure that facilities and employees comply with the standards. OSHA standards are outlined in the *OSHA Handbook for Small Business*, which can be obtained from the U.S. Department of Labor, Occupational Health and Safety, Federal Building, Room 324, 3050 N. Lakeharbor Lane, Boise, ID 83724, (208) 334-1867.

Many owners of small businesses have voiced concern about OSHA. These owners, some of whom consider the law a necessity, note their heavy workloads leave little time to comply with the many regulations. What can an entrepreneur do to ease the burden? First, be sure your employees are familiar with OSHA and your safety regulations. Second, if you have more than 10 employees, keep a record of work-related injuries and illnesses. Third, become acquainted with OSHA standards and the procedures to be used in performing a workplace inspection.

Fair Labor Standards Act — A second major employee protection concern is the economic status of employees. The Fair Labor Standards Act is intended to protect workers by providing minimum wages, maximum hours, overtime pay, equal pay, record keeping, and child labor limitations. The act requires equal pay for equal work for all employees covered by minimum wage laws. It does not prohibit paying different wages if the difference is based on seniority, quantity of work, or quality of work, but if the jobs require the same skills, efforts, and responsibilities, then an employer cannot pay one employee different wages than another.

In addition to the Fair Labor Standards Act, the Walsh-Healy Act, the Davis-Bacon Act, and other acts establish wages, hours, and working conditions that

apply to firms with government contracts. These other acts may cover your employees, depending on your situation. You can obtain specific information from the U.S. Department of Labor, Wage and Hour Division, Federal Building, Room 395, 3050 N. Lakeharbor Lane, Boise, ID 83724, (208) 334-1029, or from the Portland regional office, (503) 326-3057.

Federal Social Security Act of 1935 — The Social Security Administration (SSA) in the Department of Health and Human Services (HHS) administers the Federal Social Security Act of 1935. The act provides monthly benefits to insured persons and their dependents in the event of retirement, disability, or death. It also provides health insurance (Medicare) to persons 65 and over and to some disabled persons under 65.

Protection from income loss due to industrial accidents and occupational diseases is provided through worker's compensation laws, which provide benefits for injured workers or their dependents, regardless of who is at fault. If a worker is killed or injured on the job, the worker or dependents collect. Payment is made according to a schedule based on the severity of the injury. The worker does not receive benefits if the injury results from a fight he or she started, if the injury was self-inflicted, or if the worker was under the influence of alcohol or drugs. The employer pays the total cost of worker's compensation coverage, which is available through state or private insurance companies. A copy of the *Employer Handbook: Workers Compensation Insurance* is available from the Idaho State Insurance Fund, 317 Main Street, Boise, ID 83720, (208) 334-2370.

Federal Civil Rights Act — Fair employment practices is another broad area of concern regarding the protection of employees. Fair employment practices are established by the Federal Civil Rights Act, which makes it unlawful to discriminate on the basis of race, religion, age, or sex as a condition of employment. In hiring employees, you should be concerned with maintaining the standards established by such laws. You can get into trouble by asking pre-employment interview questions about race, religion, age, and marital status.

Additional laws concerned with fair employment practices include the Equal Pay Act, the Age Discrimination in Employment Act, and the Equal Employment Opportunity Act. You would be wise to familiarize yourself with these laws.

Compliance

What steps can you take to comply with laws protecting employees? Of all the regulations designed to protect employees, those regulations concerned with fair employment practices create the most problems for small business owners. An affirmative action program developed early in the life of a business will eliminate many potential problems. You can follow these basic steps to develop an affirmative action program:

- Develop a written employment policy and affirmative action commitment.
- Designate an individual to direct the affirmative action program.
- Publish your equal employment policy and affirmative action commitment and distribute it within your company and to potential sources of recruitment.
- Review your employment system to identify potential or actual unfair employment practices.
- Develop programs to enhance equal employment and affirmative action goals.

Protection of the environment

In recent years, concern about protecting the environment has resulted in the passing of many antipollution laws. Federal legislation includes the Clean Air Act, the Solid Waste Disposal Act, the Water Quality Act, the Noise Control Act, and the Toxic Substances Control Act.

The Environmental Protection Agency (EPA), 422 West Washington Ave., Boise, ID 83702, (208) 334-1450, is responsible for enforcing laws protecting the quality of our environment. State and local agencies also control similar statutes within their jurisdictions. You should contact the EPA or a local environmental agency concerning any responsibility — in general terms — you may have concerning environmental controls. If you have determined that environmental legislation has a significant effect on your business, you should establish policies for the following: what product lines should be developed; under what conditions the products will be produced; where the business facilities will be located; and how the environment will be impacted.

Licenses and permits

Many enterprises must be licensed by a local, state, or federal agency before opening for business. State governments restrict entry into various professions and types of businesses by requiring licenses. Paying a fee to obtain the license is common, and sometimes an inspection of the business is required. Additional regulations might include yearly inspection of the business by a state government agency or payment of an annual tax. Consult the publication *Starting a Business in Idaho*, available from the Idaho Department of Commerce, 700 West State Street, Boise, ID 83720, (208) 334-2470.

Businesses usually licensed and/or regulated include beekeepers, barber shops and beauty shops, child care centers, cleaning and laundering establishments, dairy product processors and dealers, egg distributors and graders, farm products dealers, finance and lending institutions, florists and nurseries, house-to-house peddlers and solicitors, hotels and motels, general stores, insurance companies, liquor stores,

livestock dealers, pesticide dealers, plant industries, restaurants and food-handling businesses, seed companies, and transportation businesses.

Federal permits or licenses are issued by other government agencies. For example, any enterprise involved in the preparation of meat products (such as sausages and hot dogs) or the production of drug products must obtain the required federal license.

If you plan to hire employees, you must obtain an Employer's Identification Number (EIN) through the Internal Revenue Service (IRS). This number is really a type of license.

States such as Idaho that have sales taxes and "use" taxes usually require businesses to obtain a special permit or license. This license allows the business to give the permit number when purchasing goods for resale instead of paying sales tax. Since the sales tax is a consumer tax, the business is required to collect the tax when selling merchandise to consumers. Business owners must periodically remit the taxes collected. The Application for Idaho Permit Based Taxes (Form TCA) is available from the Idaho State Tax Commission. This will result in the issuing of a Seller's Permit Number or Use Tax Permit Number with directions for the collection and periodic payment of Idaho sales and use taxes. Sales tax laws and regulations in effect

on January 1, 1992, allow nontaxable purchases to be made with a tax exemption card.

You can obtain more information on sales and use taxes from pamphlets provided by the Idaho State Tax Commission, 700 West State Street, Boise, ID 83722, (208) 334-3660, or one of five other regional offices in Coeur d'Alene, Lewiston, Twin Falls, Pocatello, and Idaho Falls.

Remember...

Keep in mind rules and laws change. It is always wise to check with the agencies responsible for the most current information on business licensing, permits, and legal obligations.

For further reading

To order copies of this or other University of Idaho College of Agriculture publications, contact the University of Idaho Cooperative Extension System office in your county or write to Agricultural Publications, Idaho Street, University of Idaho, Moscow, Idaho 83843-4196 or call (208) 885-7982.

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Information sources

Federal phone numbers

Federal Employer ID Number SS4	(800) 829-1040
Employers Quarterly Return 941	(800) 829-1040
Annual Federal Unemployment 940	(800) 829-1040
Your Business Tax Kit	(800) 829-1040
Personal and Business Tax Forms	(800) 829-1040
Health, Safety Requirements	(208) 334-1867
Wage and Hour Regulations	(208) 334-1029
Bureau of Alcohol, Tobacco & Firearms	(208) 334-1983
Immigration and Naturalization	(208) 334-1821
U.S. Bureau of Land Management	(208) 334-1414

State phone numbers

Idaho Bureau of Occupational Licenses	(208) 334-3233
Idaho Department of Agriculture	(208) 334-3240
Idaho Department of Commerce	(208) 334-2470
Idaho Department of Employment	(208) 334-6318
Idaho Department of Fish and Game	(208) 334-3700
Idaho Department of Health and Welfare, Division of Family and Children's Service	(208) 334-5700
Idaho Department of Health and Welfare, Division of Environmental Quality	(208) 334-5839
Idaho Department of Lands	(208) 334-3280

Idaho Department of Revenue and Taxation	(208) 334-7660
Idaho Secretary of State	(208) 334-2300
Idaho Department of Water Resources	(208) 334-4440

State addresses

Idaho Department of Commerce
700 West State Street
Boise, ID 83720

For employer registration, income tax:

Idaho Department of Revenue and Taxation
700 West State Street
Boise, ID 83722

(or one of five other regional offices in Coeur d'Alene, Lewiston, Twin Falls, Pocatello, and Idaho Falls)

For registration for unemployment:

Idaho Department of Employment
Employee Accounts Bureau
317 Main Street
Boise, ID 83735

For registration of assumed name, partnership, incorporation, or registration of a trademark:

Secretary of the State of Idaho
Statehouse, Room 203
Boise, ID 83720

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