

Compliance Issues

It is critical that small business owners are compliant with federal and state regulations. Most small business owners don't want to pay \$180+ an hour for an attorney's time to discuss these matters. The PPL Small Business Plans include consulting services for the Small Business Owner to talk to their Provider Attorney about compliance issues.

FACTA - Fair and Accurate Credit Transactions Act

Did you know that a small business can face a federal fine of \$2500 per employee or even a class-action lawsuit under FACTA laws?

Congress passed FACTA legislation in 2003 to protect consumers against identity theft and other forms of consumer fraud. In addition, recent FACTA rules were written regarding the disposal of confidential consumer (customers, employees, suppliers, etc) records. The law requires the destruction — "shredding or burning" or "smashing or wiping" — of all paper or computer disks containing personal information "derived from a consumer report" before it is discarded. If a business does not comply with FACTA, they face potential civil liabilities, state fines, federal fines, and even class-action lawsuits.

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How will FACTA laws affect your business? Proper legal advice can help you determine what security measures your business needs to implement to protect you and your business?

OSHA - Occupational Safety and Health Act

OSHA reporting is not required for retail, financial or service business or for businesses with fewer than 11 employees. But did you know that its rules apply to all employers, regardless of size?

According to the Occupational Safety and Health Administration:

Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees; (and) shall comply with occupational safety and health standards promulgated under this Act.

OSHA then says that the exemption from reporting is a partial exemption: Employers with 10 or fewer employees and business establishments in certain industry classifications are partially exempt from keeping OSHA injury and illness records.

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What are you required to do?

You may not know for sure without adequate advice from counsel.

ERISA - Employee Retirement Income Security Act

You may have set up a plan to allow employees to deduct health insurance premiums. Are you aware of your filing requirements under ERISA?

According to the U.S. Department of Labor:

The administrator generally must file an annual report (Form 5500 Series) each year containing financial and other information about the operation of the plan... A penalty of up to \$1,000 per day may be assessed against plan administrators who fail or refuse to comply with annual reporting requirements.

For full text from the Department of Labor, click [here](#).

Every small business needs an attorney to clearly explain their obligations.

FLSA - Fair Labor Standards Act

Do you pay overtime to your salaried clerical help? Are you prepared to support an exemption or demonstrate that they didn't work overtime?

The Wage and Hour Division of the Department of Labor says:

Unless specifically exempted, employees covered by the Act must receive overtime pay for hours worked in excess of 40 in a workweek at a rate not less than time and one-half their regular rates of pay.

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Some employees are exempt from the overtime pay provisions (but) exemptions are narrowly construed against the employer asserting them... The ultimate burden of supporting the actual application of an exemption rests on the employer.

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Do you have an attorney to ask about your interpretation?

ADA - Americans with Disabilities Act of 1990

Have you done renovations without specifically addressing ADA requirements? Could you be forced to totally re-do the work?

According to the U.S. Department of Justice:

Alterations to facilities, spaces or elements (including renovations) on or after January 26, 1992, also must comply with the Standards. If you build a new facility or modify your existing one, (for example, work such as re-stripping the parking area, replacing the entry door or renovating the sales counter), make sure to consult the Standards and the title III

regulations for the specific requirements. Renovations or modifications are considered to be alterations when they affect the usability of the element or space.

For example, installing a new display counter, moving walls in a sales area, replacing fixtures, carpet or flooring, and replacing an entry door.

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What does that mean to the small business owner? It's hard to know without an attorney to provide interpretation.

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