

**Financial and
Legal Management**

Chapter 10
The Legal Environment

Small Business and the Law

- Laws:
 - Ensure fair competition among businesses.
 - Protect the rights of consumers and employees.
 - Protect property rights.
 - Enforce contracts and agreements.
 - Permit bankruptcy when things go bad.
 - Collect the money needed for government to provide these protections.

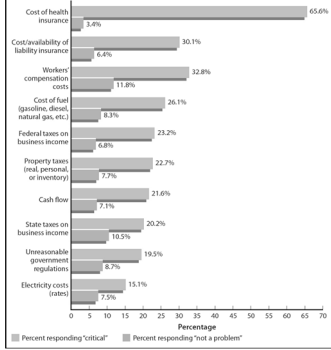
2 Source: Hatten, Small Business Management, 4th Edition

**Laws to Promote
Fair Business Competition**

- Antitrust Laws
 - Prohibit firms from combining in ways that would stifle competition within an industry.
 - Sherman Antitrust Act (1890)
 - Clayton Act (1914)
 - Under antitrust laws, any agreements or contracts that restrain trade are illegal and unenforceable.

3 Source: Hatten, Small Business Management, 4th Edition

**Figure 10.1:
Get Off Our
Backs**



SOURCE: National Federation of Independent Business/Wells Fargo & Co., "Health Insurance Costs: A 'Critical' Problem for Small Business," press release, 25 May 2004.

Source: Hatten, Small Business Management, 4th Edition

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Laws to Protect Consumers

- The Federal Trade Commission Act of 1914
 - Created the Federal Trade Commission (FTC) to regulate competition, advertising, and pricing to protect consumers.
- Federal Trade Commission (FTC)
 - Can issue cease and desist orders.
 - Sets product labeling standards
 - Bans hazardous products to ensure product safety
 - Enforces truth-in-lending practices
 - Requires equal credit access and fair credit practices

Source: Hatten, Small Business Management, 4th Edition

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Laws to Protect People in the Workplace (cont'd)

- Immigration Reform and Control Act of 1986
 - Discourages illegal immigration
 - Strengthens national origins provisions of Title VII of the Civil Right Act of 1964
- Americans with Disabilities Act of 1990
 - Guarantees job opportunity and access rights of disabled individuals.
 - Requires reasonable accommodation of the disabilities of qualified individuals.

Source: Hatten, Small Business Management, 4th Edition

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Laws to Protect People in the Workplace (cont'd)

- Civil Rights Act of 1991
 - Prohibits race norming in the setting of test standards.
 - Requires that any employment practice be job-related and a business necessity.
 - Provides for compensatory and punitive damages and jury trials for intentional discriminatory acts by employers and in cases of sexual harassment.

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Source: Hatten, Small Business Management, 4th Edition

Laws to Protect People in the Workplace (cont'd)

- Workers' Compensation
 - Provides insurance for replacement of income and payment of medical expenses for work-related accidents and illnesses.
 - Is a state or private insurance required to be purchased by all employers.
- Unemployment Compensation
 - Provides income to involuntarily unemployed workers.

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Source: Hatten, Small Business Management, 4th Edition

Laws to Protect People in the Workplace (cont'd)

- Occupational Safety and Health Administration (OSHA) of 1970
 - Sets workplace safety standards.
 - Conducts workplace compliance inspections.
 - Requires employers to record and report occupational illnesses and injuries.
 - Cites and fines employers for violation of standards.

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Source: Hatten, Small Business Management, 4th Edition

Contract Law for Small Business

- Contract
 - Is an agreement between two or more parties that is enforceable by law.
 - Does not have to be in writing to be enforceable.
- Contracts Must Be Written When They:
 - Involve the sale of real estate.
 - Involve paying someone else's debt.
 - Take longer than one year to perform.
 - Involve the sale of goods valued at \$500 or more.

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Source: Hatten, Small Business Management, 4th Edition

Contractual Obligations

- Breach of Contract
 - If one party involved in a contract does not hold up his or her end of the agreement, a breach of contract has occurred.
 - The intent of litigation is to try to put you back to where you were before the agreement was made.
- Breach of Contract Remedies
 - Compensatory damages (money awarded)
 - Specific performance
 - Injunction

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Source: Hatten, Small Business Management, 4th Edition

Laws to Protect Intellectual Property

- Intellectual Property (IP)
 - Is the unique product that is created through the mental skills of a person.
 - Symbols and slogans that describe your business or product
 - Original expression, whether it takes the form of a collection of words, an artistic interpretation, or a computer program.

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Source: Hatten, Small Business Management, 4th Edition

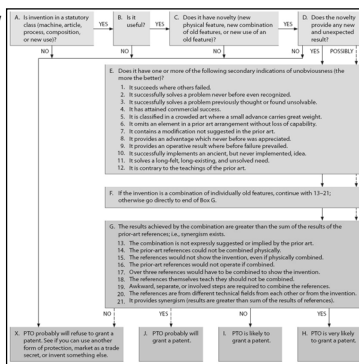
Protecting Intellectual Property (cont'd)

- What Can Be Patented?
 - Patent and Trademark Office (PTO) test for granting a patent:
 - Does the invention fit a statutory class?
 - Is the invention useful?
 - Is it novel?
 - Is it non-obvious?
- Patent Searches
 - Key words
- Patent Application

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Source: Hatten, *Small Business Management*, 4th Edition

Figure 10.2: How Do You Get a Patent?



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Source: Hatten, *Small Business Management*, 4th Edition

Protecting Intellectual Property (cont'd)

- Copyright
 - Protection provided to the creator of a literary, musical, or artistic work for a period of the creator's life plus 50 years.
 - If a corporation is owner of a book's copyright, it will continue as owner for 75 years after the publication, or 100 years after creation.
 - Expressions, but not ideas, can be copyrighted.

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Source: Hatten, *Small Business Management*, 4th Edition

Protecting Intellectual Property (cont'd)

- Brand
 - Is a name, term, symbol, design, or combination of these elements that identifies and differentiates a firm's products from those of its competitors.
- Trademarks
 - Are brands protected by registration.
 - Can include both a graphic and the brand name.
 - Continue as rights as long as the trademark is used.
 - Provide improved brand recognition.
 - Use the symbol TM before a product is registered, and use the symbol ® after it is registered.

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Source: Hatten, Small Business Management,
4th Edition

Protecting Intellectual Property (cont'd)

- Global IP Protection Issues
 - Protecting intellectual property in other countries is difficult.
 - Patent, copyright, or trademark protection in the U.S does not apply in most foreign markets; separate protection is needed in each country.
 - Firms can seek protection via the international registry of the World Intellectual Property Organization (WIPO).

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Source: Hatten, Small Business Management,
4th Edition
