

How to avoid heavy fines for such simple "crimes" as not knowing the rules relating to environmental law

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By Stuart Urwin

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Is your company aware of the heavy fines and penalties that can be imposed on your organization for infringing environmental laws and regulations? Many companies are not.

It's important to know that your organization can be fined for many different kinds of infringement, not just for incidents of pollution. Examples are:

- Failure to register, for example, with the appropriate regulatory agency or compliance scheme.
- Failure to report specific incidents, such as environmental infringements and impacts
- Failure to comply with the law, for example, regulations relating to pollution prevention and control, waste packaging requirements, emission levels, countryside and habitats protection, and planning and building regulations.
- Failure to keep proper records, such as those related to disposal of hazardous waste materials, waste management licenses, and local air pollution control.
- Lack of certification, including water discharge consents, IPPC Permits, and certificates of competence.
- Provision of false information
- All of these breaches of the environmental regulations can result in your organization being heavily fined. It's not just the fine, which can result in a substantial financial penalty, it's also the damaging publicity associated with the infringement that is so important for your corporate reputation.

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In today's world, everything from refrigerator disposal to vehicle emissions, through river water quality, the construction of incinerators, the use of packaging, energy, waste and water infrastructure, pollution abatement, ownership and development of contaminated land, production of chemicals and policy on climate change, is subject to legislation.

International Treaties such as Kyoto, the Montreal Protocol on ozone depleting substances, WTO trade rounds and UN Conventions and Declarations such as the Johannesburg summit on sustainable development in 2002, all require Governments to take action at national level by agreed deadlines. Even companies that don't consider themselves directly affected by much of this, may find that their clients or suppliers are faced with new regulatory requirements.

Each year, thousands of companies are prosecuted and fined for environmental offences, and there is pressure every year for the level of penalties to increase, especially for repeat offenders.

The rules and regulations are changing all the time and you need to be certain that you are fully

informed about new proposals long before they are introduced.

Just remember, it's not just incidents of pollution that can lead to heavy fines. Failure to register, failure to report, failure to comply, failure to keep proper records, lack of certification offences, provision of false information – these are all treated as serious breaches of environmental law.

It's no good pleading ignorance of the law – that's no defence.

You need an early warning system, which ensures that you are always well informed about your responsibilities.

Stuart Urwin runs ukendata.com, which shows you how to increase profits, cut costs, cut taxes, and avoid damaging law suits by staying informed about new environmental policy changes.

<http://www.ukendata.com>

Criminal Law Overview

By SWI Digital Staff

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Criminal law involves prosecution by the government of a person for an act that has been classified as a crime. Civil cases, on the other hand, involve individuals and organizations seeking to resolve legal disputes. In a criminal case the state, through a prosecutor, initiates the suit, while in a civil case the victim brings the suit. Persons convicted of a crime may be incarcerated, fined, or both. However, persons found liable in a civil case may only have to give up property or pay money, but are not incarcerated. A "crime" is any act or omission (of an act) in violation of a public law forbidding or

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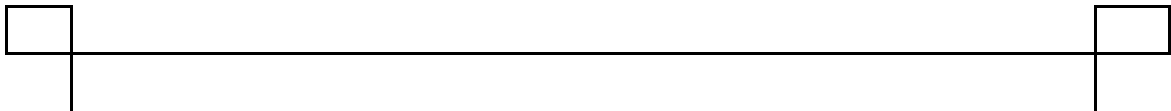
commanding it. Though there are some common law crimes, most crimes in the United States are established by local, state, and federal governments. Criminal laws vary significantly from state to state. There is, however, a Model Penal Code (MPC) which serves as a good starting place to gain an understanding of the basic structure of criminal liability.

Crimes include both felonies (more serious offenses — like murder or rape) and misdemeanors (less serious offenses — like petty theft or jaywalking). Felonies are usually crimes punishable by imprisonment of a year or more, while misdemeanors are crimes punishable by less than a year. However, no act is a crime if it has not been previously established as such either by statute or common law. Recently, the list of Federal crimes, dealing with activities extending beyond state boundaries or having special impact on federal operations, has grown. See Title 18.

All statutes describing criminal behavior can be broken down into their various elements. Most crimes (with the exception of strict-liability crimes) consist of two elements: an act, or "actus reus," and a mental state, or "mens rea." Prosecutors have to prove each and every element of the crime to yield a conviction. Furthermore, the prosecutor must persuade the jury or judge "beyond a reasonable doubt" of every fact necessary to constitute the crime charged. In civil cases, the plaintiff needs to show a defendant is liable only by a "preponderance of the evidence," or more than 50%.



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