

Business regulation law

Business



When conducting business whether it is local and global, big or small organizations have to abide by state and federal laws. Depending on the nature of the business different organization has to comply with certain laws and regulations. For example, retailers like Wal-Mart, Target and Kroger have to comply with the Department of Labor and a manufacturing company like LM Fiberglass and Toyota would have to comply with the Environmental Protection Agency and Occupational Safety and Health Administration (OSHA).

When an organization do not comply with the state and federal regulation the company can face fines or become caught up in major litigation, costing the company major expenses. In this memo I will identify common tort and risk found in the organization of Alumina, and describe different measures to manage risk. Some common torts found at Alumina are negligence, defamation/slander/libel, Freedom of Information Act (FOIA), and strict liability is tort liabilities uncovered. Alumina Violation Alumina is an aluminum maker base in the United States and has operation in eight countries.

The aluminum maker is on Lake Dira in the state of Erehwon. Alumina is under the jurisdiction of region six under the Environmental Protection Agency. A few years ago Alumina was found in violation with the Environmental Protection Agency for environmental discharge norms in an Environmental Protection Agency compliance evaluation. The PAH levels were above prescribe limits. Alumina was order to clean up the problem in which they complied too quickly. Because of this incident Alumina has maintain a good compliance record.

Recently a resident name Kelly Bates claims that Alumina continuous contamination of Lake Dira with pollutants. Bates threatens to file a suit against the company for punitive damages and recovery damages. She believes that the incident that occurred several years ago is the cause of her daughter's leukemia. Tort Liability A tort is a “civil wrong that is an interference with someone's person or property such that an injury results” (Jennings, 2006, p. 367). Torts can be categorized as intentional torts, torts of negligence, and strict liability torts.

Intentional torts are those that result in a harm not accidental. Torts of negligence are accidental harms that result from a failure to act appropriately in a given situation. Strict liability torts assign absolute liability and offer very few defenses. Defamation of Character A company or a person reputation is a valuable asset. The tort of defamation of character requires that a plaintiff prove that: the defendant made an untrue statement about the plaintiff or the statement was intentionally published by a third party (Cheeseman, 2010).

Written False statements are referred to as libel and verbal statement are referred to as slander. Bates made a libel statement in the newspaper about Alumina and the violation that occurred years ago. This defamation can have a negative effect on the company. Alumina can lose business with a bad reputation and once the reputation has gone sour it is hard to reclaim the good name. Freedom of Information Act A local news reporter and Kelly Bates approached the EPA to obtain environmental audit reports that documented Alumina violation of the Clean Water Act.

Bates requested the documents under the Freedom of Information Act; this act was enacted in Congress in 1966 to the American public great access to the Federal Government records (FederalCommunicationCommission, 2010) . The Company chooses to release partial audit information from the violation from years ago. Alumina has the right to withhold informational this qualifies under the Confidential Business Information, which is available under exemption four of the Freedom of information Act. Strict liability Negligence and Strict liability

Negligence, the most common tort, is explained as conduct that falls below standards of behavior established by the law for the protection others against unreasonable risk harm (Cheeseman, 2010). In this case of negligence Bates must prove that Alumina had a duty to keep the PAH levels contained. In a case Alumina breaches that duty by not staying in compliance with the EPA regulation several years ago. Bates assumes that the consumption of the water cause the harm of her daughter to have leukemia. In response Alumina chose to conduct an independent site study for new violations.

The reports come back good the PAH levels were well below the standard. After releasing a partial audit report Bates has threaten to file a lawsuit against Alumina of personal injury to recover compensation and punitive damages. Alumina negligent conduct of “ serious violation of environmental laws five years ago is the cause of her daughter leukemia,” alleged by Bates (Business Regulations Simulation, 2010). The best resolution for this situation is mediation by a neutral third party, by choosing this options Alumina can provide Bates with a confidential settlement.

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The settlement includes that Alumina provides Bates with reimbursement of medical expenses for her daughter treatment a lump sum for future treatments and a college fund set aside if her daughters recovers from the leukemia (Business Regulations Simulation, 2010). Although tort liability is founded on intended harm strict liability is attached even though the defendant has been reasonable. In the Article titled “ The American Influence on Canadian Tort Law” author Allen M. Linden states “ One person may be require to compensate another for injury or damages even though the loss was neither intentionally or negligently inflicted.

If Alumina had taken the case to court, the company would have been in a long litigation process costing the company thousands and even millions of dollar. The mediation process is half the cost of a court trial and there is no guarantee that the jury would agree with Alumina even though the company may have had proof that the allegation against the company was false. The jury tends to side with the victims. Preventative, Detective, and Corrective Measures In an organization it will be hard to prevent allegation against the company, but the company needs to prepare for such issues when they arise.

A preventative plan should be put into place. The company should make it a priority that the employees of the company aware of the rules and regulations of the state and federal laws. The company should be aware of the competitors who have violated any government regulations and improve their process so that the company will not violate the same regulations as the competition. Health risk that may be exposes to the staff, customers, and other should be included in the document also. Conclusion Alumina has <https://assignbuster.com/business-regulation-law/>

to abide by state and federal rules these laws are in place to improve environmental safety.

The agency that regulates Alumina was the Environmental Protection Agency this agency enforces environmental laws. Alumina has to be aware and comply with the state and federal regulations at all-time or it can affect the business a great deal. Maintaining a positive image in the community is also important when a crisis occurs the support of the community can be a big help in determine issues. The decision made by Alumina were wise, the company took the right approach to maintain its good name in the community and the competitive market and save cost on litigation.