

LEGAL STRUCTURE RULES & REGULATIONS FOR DIRECT MARKETING ENTERPRISES

by Richard D. Gibson¹

Nearly all marketing activities are affected by federal, state, county, and city ordinances, rules or regulations. They are simply a fact of life. In view of the current public interest for a safe-quality environment, it is just good business to be aware of regulatory necessities and to show good faith in attempting to comply with them.

Because each direct marketing enterprise is different, and because regulations vary from location to location, it is impossible to provide a complete list of regulations that will apply every where all the time. However, it is possible to provide a generalized list of common laws and regulations that direct marketing operators work with in the process of operating their businesses. **Please check the box at the end of this section entitled “Confused? Where To Go For Help!!!”. It provides valuable sources of information which can help ease the process of complying with the appropriate regulatory agencies.**

A few general rules that almost always apply in any situation:

1. Always check with local, state and federal authorities before trying to market any product, especially food items. Food items are almost always carefully regulated.
2. Check with the officials before you start so that there are no unpleasant surprises down the road. Make

yourself knowledgeable about rules and regulations far enough in advance to allow adequate time to comply with them.

3. Rules and regulations are constantly changing, so communicate regularly with local and state officers. Keep abreast of changes.
4. Make government inspectors your allies rather than your adversaries. They will often give you valuable free advice on many aspects of your operation. If you are constructing a building, for example, your consultations with inspectors will ensure that what you are building is something they will approve.
5. Nearly all regulations add time, effort and cost to your marketing operations. These can have an undesirable effect on your ability to do business. If you feel that certain legal requirements are extraneous or detrimental, bring this to the attention of the proper authorities and work with them to resolve the situation. You may be able to obtain a waiver in certain situations.
6. Remember that safety is always of paramount importance. You can improve the opportunity for success if you will 1) make your enterprise as safe as possible for clientele and 2) carry adequate insurance for the size and type of your operation.

In case you are inspected:

1. When you are inspected, accompany the inspector while he/she is walking around your property.
2. Ask questions and seek advice and assistance in meeting any regulations that apply to your business.

3. Ask for a business card. It is important to know how to contact the inspector for follow-up purposes. You may need to obtain copies of regulations, clarify a specific situation with an inspector, or speak with someone else in the agency.
4. In case of violations or citations, find out completely as to why you are being cited. Read the regulation so that you understand it thoroughly and how it applies to your situation. If the warning is obviously justified, communicate to the officer that you understand and will comply. If you feel you are being wrongly cited, talk to the enforcement officer.
5. If there is still disagreement, follow up with the appropriate agency and ask for help from their representatives. The next step is to go to your board of supervisors and try to work the problem out. As a last resort, call or write your elected state senator or representative. He or she may be looking for a case, and all of them are sensitive to public opinion, especially when a bill is coming up for a vote.
6. In all cases, be polite but persistent. Agency representatives have regulations they have to abide by. If we get angry or overbearing with them, our attempts at working through difficulties can have an adverse outcome.

Requirements To Consider

The following list of requirements are commonly considered by direct marketing managers as they start up, expand, or conduct their operations. The list, however, may not necessarily include all of the rules and regulations that may apply in a given situation.

State Workmen's Compensation: If you pay a salary to one (1) or more

employees, you must carry workmen's compensation insurance. You may obtain it from the state or from private carriers. If you have family members working for you and do not pay them a salary, you do not have to follow this regulation. The state will mail an application to you at your request.

Insurance: The amount and kind varies by location, type of operation, number persons employed, and the volume of business. Every operator should discuss their particular needs with their insurance agent. You might start your discussion by considering these types of coverage: (1) **Product liability insurance** for injuries which may arise out of products that are raised and/or sold by you. (2) **Premises liability insurance** to protect you if you should cause injuries to the public or damage property belonging to the public. (3) **Employer's liability insurance** (either legal or statutory) to protect you in event of injuries to your employees. (4) **Physical damage insurance** to protect against loss to the property owned by the operator, such as buildings, equipment and merchandise. The following are some guidelines to think about. Again, your situation may require more or less than these amounts. Do not assume that your regular homeowner or private automobile insurance will be sufficient. Contact an insurance agent that deals in business insurance needs. [Don Cook, Farm Bureau Insurance]

State Board of Economic Security: Get a copy of the "Handbook for Workmen's Compensation and Unemployment Insurance." Ask for the appropriate forms.

Building Safety Department: If your building is permanent, a portion of the land where it is located should be commercially zoned. It should be at least 25 feet from the edge of the property to allow for room to pull off the highway.

Weight and Measures: Have a copy of their handbook for businesses. You will need a license and the agency will also need to check all scales and equipment

for accuracy on items being sold by weight. Generally, if you sell packages or units this will not apply.

County Planning and Zoning: If the market site is outside municipality corporate limits, you will need to contact your local office.

Municipality Planning and Zoning: If the market is to be located inside corporate limits of a municipality, the municipal office will need to be contacted.

Small Business License: A business license may not be needed if you are selling on your own property. A state sales tax permit will be needed. If you are located within city limits, you need a sales tax permit from the city, and you must comply with the zoning laws of the city.

State Department of Revenue: State tax withholding is a critical area. Save yourself financial stress by complying with all tax withholding requirements. Be sure to register as a business.

Internal Revenue Service: Federal withholding information for social security and income tax can be obtained from this agency. This will include both employees and business inheritance.

Social Services; County: Procedures for redeeming and obtaining reimbursement for food stamps.

Federal Agencies: There are never any guarantees that you will never be inspected by the Environment Protection Agency (EPA) or the Occupational Safety and Health Agency (OSHA). You should be aware of their regulations and respond accordingly.

Organic Produce: If you plan to market organic labeled produce, you should know that the Organic Foods Product Act (OFPA) of 1990 was adopted as part of the 1990 Farm Act to establish national uniform standards for organic foods, which would provide assurance to consumers that food marketed as organic meets a prescribed set of uniform standards.

OFPA provided for the appointment of a National Organic Standards Board (NOSB) of private sector individuals to advise USDA on materials for organic production and other aspects of program implementation. Since March 1992, the NOSB has been developing its recommendations through an intensive public-input process.

NOSB finalized most of its basic program recommendations on organic production and product-handling standards, and the accreditation process for certifying agents, at its meeting in Santa Fe, New Mexico, in June 1994. NOSB recommendations on the national list of allowable synthetic and prohibited natural materials are underway. Proposed regulations promulgated by USDA for implementation of the program are expected this fall with final regulations by summer 1995. USDA's Agricultural Marketing service is currently studying the demand for organic products. [Information was provided by Julie Anton, AMS. (202) 720-8331]

Perishable Agricultural Commodities Administration (PACA): This agency has licensing and bonding requirements for persons buying and/or selling produce across state lines. This helps provide financial responsibility without recourse to court suits.

State Standardization: This agency controls quality standards of fruit and vegetables being sold through roadside markets. Markets are subject to periodic inspection.

State Highway Department: If your business is outside the incorporated limits of a municipality along any state or federal highway, they will want to check the following items of concern:

- is the market off the legal road right-of-way?
- do your advertising signs obstruct a driver's visibility?
- the number of access points and how access to the property is controlled.
- distance from intersections.

New Food Labeling Law: On May 8, 1994, a new mandatory nutrition labeling program will go into effect for most processed products (including vegetables) sold at retail. The Nutrition Labeling and Education Act of 1990 (NLEA), administered by the Food and Drug Administration (FDA), will require most food processing firms to conform to new food labeling regulations. A listing of fourteen nutrients and food components must be provided to consumers, with disclosure of several other nutrients (such as thiamin and niacin) being optional. Products packed prior to May 8, 1994, may be sold in the market without the new labels. However, any product packed for retail sale after May 7, 1994, must be packed in containers bearing the new comprehensive nutrition-information labels.

NLEA regulations are expensive and can be categorized as follows:

- Mandatory ingredient labeling for standardized foods and certified colors (effective on May 8, 1994).
- Voluntary labeling of raw fruit, vegetables, and fish.
- All other labeling regulations, including mandatory nutrition labeling, percent-juice labeling, nutrient-content-claim definition, health-claim labeling, format changes, and others.

The NLEA does provide some exemptions from mandatory nutrition labeling. Exemptions exist for:

- Small businesses
- Foods served in restaurants and other food service establishments,
- Foods to be processed, labeled, or repacked at another site,
- Foods prepared at retail level,
- Food containing insignificant amounts of all required nutrients.

Modifications to nutrition labeling rules are allowed for foods sold in small packages. Processors will have to provide required nutrition information at the point of consumer purchase. For foods sold in intermediate-sized packages, use of a modified labeling format will be allowed. Foods sold from bulk containers will have nutrition information prominently and conspicuously displayed at the point of purchase.

Many consumers base their initial purchase of a product in part on nutrition information provided on the label. A 1990 survey indicated that about three-fourths of respondents reported at least sometimes reading and being influenced by nutrition labels when considering the purchase of a product for the first time. However, other factors such as habitual buying, brand loyalty, and price are also important determinants of purchase and consumption patterns. Supermarket promotions that feature point-of-purchase nutrition labeling have been found to encourage purchases of frozen and canned products when accompanied by selection and preparation tips. [Based on material prepared by Elizabeth Prazao, ERS. 202-219-9864]

Health Department, County: County health department regulations apply whenever the health of clientele could be affected. Fruit stands or other types of food distribution are common examples. Every county has different regulations but the following tips may help direct marketing operations preparing to sell food products to the public.

1. Keep all foodstuffs off the ground. Different counties require different heights.
2. Usually home-canned materials are not allowed to be sold.
3. Raw honey should be labeled as such for the seller's protection.
4. Necessary methods to ensure against contamination of food

by insects, rodents and other animals must be taken.

5. Store empty crates in a clean and sanitary manner.
6. Ensure that garbage is properly disposed.
7. Properly refrigerate all perishable foods such as milk, eggs, and meat.
8. Do not cut fresh fruit to serve as samples to clientele.
9. Comply with all building codes and permits.

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CONFUSED? WHERE TO GO FOR HELP!!!

SMALL BUSINESS ASSISTANCE OFFICE, ARIZONA STATE GOVERNMENT (1-800-542-5684)

The Arizona State Government Commerce Department of Small Business Assistance* will help make up a customized package concerning: licenses, insurance, taxes, and laws. Before calling answer the following questions.

1. Structure of ownership? (company, private, corporation, etc.)
2. Location of actual operation?
3. Building structures?
4. Sales by unit or by weight?
5. Employees?
6. Personally grown or resale?

THE UNIVERSITY OF ARIZONA COOPERATIVE EXTENSION: We provide educational assistance to any individual or group interested in marketing agricultural products direct. There is a county office in each county of Arizona. Check the government listings in your area.

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EXAMINING INSURANCE NEEDS IS ESSENTIAL TO MARKETING

Farmers' markets, roadside stands, U-Pick vegetable and fruit operations, and Christmas tree farms are on the upswing. Consumers enjoy selecting from freshly picked produce, and many like picking it themselves.

For anyone to begin one of these operations or to continue an existing one, the usual business considerations must be made. One must determine the market and know how to serve it. You also need the manpower, facilities and finances to make your operation a success.

Insurance is also an important part of the financial picture. Although insurance may be expensive, you'll only be gambling everything you own if you try operating without it. Insurance is as necessary as quality products, good help and a good location in operating a direct marketing business.

While there are many optional insurance coverages available (and needed by some operators), there are some basics which every operator should have. They are: (1) **Product liability insurance** for injuries which may arise out of products that are raised and/or sold by you. (2) **Premises liability insurance** to protect you if you should cause injuries to the public or damage property belonging to the public. (3) **Employer's liability insurance** (either legal or statutory) to protect you in event of injuries to your employees. (4) **Physical damage in-**

surance to protect against loss to the property owned by the operator, such as buildings, equipment and merchandise.

Although more options may be available, these items are certainly the basics on which to build a solid insurance program. It is always wise to consult your attorney and your insurance representative to help determine your particular insurance needs. So, let's take a look at the basic hazards and the coverages related to them.

Product Liability

Chemical use: Are the chemicals safe for application to products destined for consumption or contact by humans? And,



Don Cook, manager of the Indiana Farm Bureau Insurance's underwriting department in Indianapolis, recommends that direct marketers regularly review their insurance program, especially liability coverage, with an insurance agent or attorney to make sure it is up-to-date and complete.

have you followed the manufacturer's application instructions carefully? Selecting an inappropriate chemical or the misapplication of that chemical may place the entire burden of liability on you.

Shelf life: All operators are aware of the need to keep bad produce off the shelf. Yet, while this seems obvious, sometimes they forget to keep an eye on the products they have purchased from outside sources for resale. Often, these are prepackaged items, such as honey, salad dressings, jellies, jams and other similar items. Check all products regularly to be sure they are not outdated.

Food preparation: It is extremely important that employees handling food do it properly and that your operation conforms to the health standards of your local municipality and/or state. Monitor the ingredients and the quality of the products carefully. Do not create situations where an ingredient can accidentally be put into the food product that would contaminate it. Clearly label all stored ingredients. Again, doing things the right way and being able to prove it will certainly help if a problem occurs.

Premises Liability

Condition of parking area: It is advisable to have a paved parking area, preferably concrete or asphalt. If you use gravel or stone for your parking facility, be sure that you use very small stone or gravel. The larger rocks increase the chance of someone twisting an ankle, falling and being injured. In addition, having parking along a highway or road certainly can create safety problems. Traffic congestion with inappropriate parking facilities could put you in a contributory liability situation. Another area of concern is utilizing an open field or lot. Often these areas have holes, ruts or mounds of dirt which can cause a fall. All unpaved areas should be maintained regularly to keep them as smooth as possible.

Steps, ramps and handrails: Steps always present problems, whether located along sidewalks, at building entrances or inside a building. Ramps also present problems, but, if kept gently sloping, they generally are better. Whether you use steps or ramps, always make sure strong and solid handrails are in place. It is a good idea to follow a regular routine of checking the steps, ramps and handrails to be sure that they remain in good, safe condition.

Equipment and animals: Farm equipment and animals are often close to the market. Children tend to look at farm equipment as something to climb on and animals as something to pet. Consequently, it is advisable to take precautions to try to keep the public, especially children, away from both. Since children frequently do not recognize the dangers associated with farm machinery and animals, responsibility for injuries could be absolute.

Unusual hazards: Each operation may have a hazard which presents a unique exposure. You should look for ways people can be hurt and then look for sound methods of protecting against injuries from those potential problem areas. Some common hazards are:

- A wood stove that a person, especially children, could brush against or touch and be burned.
- Playground-type equipment which is provided for the customers' children. An insurance underwriter would certainly discourage the use of this equipment, even though customers seem to prefer it.
- Hayrides, pony rides or buggy rides. Again, these present the possibility of absolute liability. These operations are usually discouraged by underwriters. However, these may be the attractions you feel are needed for

your operation. In this case, it's important to understand the tremendous liability potential these present and the accompanying insurance expense for this exposure.

- U-Pick or U-Cut operations often provide rides to the field. The ride may be on wagons, trailers or special carts pulled by horses or tractors. These methods of transportation can present some serious liability exposures. Some suggested ways of controlling these are:

- Do not cross a public road with these types of vehicles. Do not use the vehicle if it is muddy enough to create ruts. (Remember, tomorrow that same ground may be dry, and ruts can make the ride very rough and hazardous.)

- Do not use the vehicle in areas where there could be a sharp drop-off. A drop-off of just a few inches could cause the vehicle to overturn if the wheel leaves the path.

- Do not operate the tractor at high speeds. Pulling wagons, trailers or carts at a slow speed is usually best. These units seldom have springs, and hitting a rut or hole can jostle the passengers severely or throw them off of the unit, which can cause injuries.

In addition, some wagon-type units do not trail well at the higher speeds and are subject to whipping.

- In U-Pick orchard operations, the public should be allowed to pick only from the ground. The use of

ladders, whether they belong to you or the customer, can cause some serious liability exposures.

- In a U-Cut Christmas tree operation, customers should not be allowed to use chain saws, whether they are yours or their own. In fact, you should do the cutting—not the customer.
- In U-Cut operations, the field should be checked daily and the remaining stumps cut off at the ground. Untrimmed stumps may cause trips and falls.

Liability to Employee

The employee situation is one to be extremely careful about. In some states, worker's compensation is mandatory. In others, the employees may not be covered by the worker's compensation act

unless the farmer has opted to bring them under the act. This is an area of interpretation in some jurisdictions. It is always advisable in cases where statutory participation is not required that you discuss

this matter very carefully with an attorney well-versed in your state's law concerning employer responsibilities. Most hazards relating to employees can be minimized with a thorough training program and the use of proper safety equipment (shields on machinery, safety glasses, masks, etc.) True, the added training and use of safety equipment will take a little more time and money, but it can sure save a lot of grief (and money) in the long run.

Insurance is as important to direct marketing and farming as good equipment

Property Insurance

Theft and vandalism losses can usually be avoided or at least minimized by being able to secure the building or sales area. However, there is not a lot you can do

about produce that you leave out in the open.

From a fire standpoint, wiring should be checked to assure it is in good condition and that circuits are not overloaded. In addition, heating with portable heaters requires special caution. The area in which they are to be operated should be examined carefully to determine if combustible materials are nearby. If so, heaters should be moved or relocated to avoid combustibles.

As far as wind is concerned, you should attempt to try to make everything as secure as possible. Do not leave doors standing open. Either they should be closed and latched or, if left open, they should be secured in the open position. Anchoring outdoor signs and other items that might easily blow away is usually relatively easy. Properly securing such outdoor items also reduces potential liability claims.

These are the very basics. The items are simple and common, but it's surpris-

ing how often they are overlooked. But the most common question asked about liability insurance is, "What limit of liability should I buy?" This question is not easily answered because of the changes in awards made by juries in recent years.

In the past, net worth was considered a good limit of liability. However, courts now tend to ignore this and base the award on what they perceive the injury to be. This could be in excess of the limit you have purchased. Because of these uncertainties surrounding liability claims, it is best to buy all the liability insurance you can.

Cost of Insurance

The cost of this insurance is decided by several factors. These include the size and type of the operation, and unusual hazards which may exist (such as hayrides, playground equipment, pony rides, farm ponds, etc.).

Some farm-owners' policies include coverage for the operation of a small roadside stand, while others may not. Ask your insurance agent. When the coverage must be purchased separately, the cost can vary from a few dollars to thousands of dollars. It depends primarily on the size of the operation and the type of hazards involved.

Property insurance is easier for most people to establish. Here, you need to determine amounts of insurance, perils desired, and the deductible best suited to your financial position.

The amount of insurance is relatively easy to determine. You insure for what the property is worth. Remember that most policies provide coverage on an actual cash value basis and not on the replacement cost. Replacement cost coverage may be available only as an option and on certain types of property (usually only on your dwelling).



Shown above is a good example of how to reduce the risk of accidents in the parking area of a roadside market. This clean and smooth asphalt parking lot covers a large area near this winery shop and slopes gently up to the entrance, eliminating the need for steps. The entrance way is also well-maintained

The operator should consider a policy which provides protection against loss caused by fire, wind, hail, explosion, smoke, vehicles, vandalism and theft. Broader package policies may be available. The larger the operation, the more important the broader perils may become.

You should also examine the cost of at least a couple of deductible options. These can help keep your premium more reasonable. The cost will vary by the type of policy and may run anywhere from as low as a few cents per \$100 of coverage to several dollars per \$100 of coverage. The amount of insurance, perils, and deductible selected will affect the cost. However, other factors which may be beyond your control can also influence the cost, such as fire protection and available water supply.

After reading this article, you may feel that roadside stands and similar operations may not be on the upswing. It really is not as bad as it may seem. Most of the insurance related items mentioned have common sense solutions. In fact, common sense is the best guide to controlling hazards associated with a farm market or, for that matter, with any farm operation.

The hazards and insurance needs are real. Don't be lulled into a false sense of security because you have a farm-owner's policy. Learn to read your policy and ask your insurance agent when you have questions. You could stand to lose everything if you take your insurance for granted.

Insurance is as important to direct marketing and farming as good equipment. In fact, insurance is the one piece of farm equipment that works for you 24-hours a day.

Before making a major change to your farming activities, it's important to visit with your insurance agent and your attorney. Both can offer good, sound advice that will pay big dividends. And that's what direct marketing is all about.

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HOW GROWERS CAN REDUCE LIABILITY RISKS

*Insurance coverage and safety
are still your best defense*

Fruit and vegetable growers, like other businessmen and women, face some liability risk every time they make their produce available for public consumption. But there are basic business practices they can use to help reduce the likelihood of liability suits being filed.

"Regrettably, there is no way to prevent a lawsuit being filed against you in most circumstances," says Donald L. Uchtmann, a professor and acting head of the University of Illinois' Department of Agriculture Economics and an Extension agricultural law specialist. "A consumer may believe that pesticide residue on fruits or vegetables made him sick." A U-pick customer or delivery person may break a leg on your property and believe it's your fault. An employee may be injured on the job or your dog might bite a neighbor. Or, while driving your truck to town, your employee may hit a pedestrian.

"While growers can't anticipate every potentially damaging circumstance, growers can increase the chances of successfully defending the suit if and when it is filed. They can also insure against remaining risks that are unavoidable."

Before addressing these steps, growers need an understanding of the overall legal issues involved in liability. Growers may

be liable for injury or property damage to a third party because they acted negligently, because an employee was negligent or because of special circumstances in which the law allows recovery even in the absence of fault on the part of the defendant.

Types of Liability

Uchtmann says it is important that growers have a reasonably clear definition of the legal terms. For example, negligence can be defined as a lack of care under the circumstances.



Photos: University of Illinois Ag Communications

Donald Uchtmann, University of Illinois ag law specialist, says there is no way to prevent a lawsuit being filed against you in most cases. However, by stressing safety and health awareness at your farm market, you can reduce the risk of lawsuits.

"This is an imprecise definition because the very concept of negligence is intended to be flexible," he says. "In essence, growers may be liable for personal injury or property damage to third parties when their failure to be careful is the cause of an injury or an accident."

A blatant example of negligence would be to knowingly allow a defective ladder to be used in a U-pick operation.

"Whether a grower acted carelessly is usually a question that a jury answers using its collective common sense, unless an out-of-court settlement is reached," he says.

Respondent superior is another legal concept that places liability for an employee's negligent acts upon the employer.

"A key provision is that the act occurred in the performance of the employee's duties or within his or her scope of responsibility," Uchtmann says. "The law broadly defines 'within the scope of employment,' so an employer cannot escape liability simply by ordering the employee to do all the work carefully."

Premises liability is another component of negligence. Uchtmann says the general rule is that landowners or tenants are not liable for someone injured on the premises unless the landlord or tenant is at fault. Landowners could be at fault if they were negligent, or if they intentionally injured the entrant.

"If the entrant is a trespasser, the probability of the owner or tenant being liable is very low, but liability could arise if 'excessive force' is used to remove the trespasser or if the trespasser is intentionally injured."

Product liability laws are also important to those growers who sell directly to consumers. Plus, product warranties can be expressed or implied.

"Express warranties" involve a positive statement about the product. One ex-

ample would be a label noting that, "This fruit has not been sprayed with Pesticide X in the last 10 days." Implied warranties arise automatically, such as the implied warranty that fruits or vegetables sold are of reasonable quality.

"If a product does not live up to the express or implied warranty, and if the consumer is injured as a result, liability can arise," he said. "In contrast, strict or automatic liability does not require evidence of either breach of warranty or fault. Strict liability may be present whenever a product is sold in an unreasonably dangerous condition. Fruits or vegetables with certain pesticide contamination could be viewed as unreasonably dangerous."

Workmen's Compensation

Workmen's compensation laws provide an example of liability even though the person has not been negligent. Where such laws apply, the employer is automatically liable for specified amounts when an employee is injured on the job.

"Agricultural employment is exempt from workmen's compensation laws unless the employer hires more than 500 worker days of labor per fiscal quarter," Uchtmann says. "Growers involved in direct marketing operations should be aware that the sales activities of employees working at roadstands and other marketing facilities are not clearly agricultural in nature, which means direct marketers may not be able to use the agricultural exemption."

Dog bites provide another potential for liability without show of negligence. In Illinois for example, a dog that attacks without provocation and injures people peacefully conducting themselves in places where they may lawfully be exposes its owner to automatic full liability for any injuries.

Recent changes in Illinois law have also affected a grower's potential liability. Several changes were made last summer in

the liability law in response to the "alleged insurance crisis" in the state.

"Under prior law, if an accident occurred and the defendant (say, a grower) was 10% at fault and the injured party was 90% at fault, the injured party could still receive 10% of his damages from the grower," says Uchtmann. "Now, under the comparative negligence rule, defendants cannot be held liable unless they are more than 50% at fault."

Other changes include some limitations on claiming punitive damage (compensation exceeding actual damages), procedural changes which discourage frivolous suits and modification of the joint and several liability rules. Uchtmann says fruit and vegetable growers from other states can contact their extension agricultural law specialist for more specific information.

Protecting Against Liability

"With this background, a grower is ready to take some steps to protect against liability," says Uchtmann. "I recommend several simple and basic actions."

"First, be very careful and cultivate a safety consciousness among those who work in your business. People who are concerned about safety and are constantly reminded to be careful are less likely to be negligent."

"Growers should also make the premises as safe as possible. If the premises are safe, the probability of injury to a cus-

tomers, delivery man or others is reduced. They should avoid extra label use of pesticides. In particular, don't apply pesticides not approved for the particular fruit or vegetable, and don't apply approved pesticides too close to harvest."

"A grower should also create as much good will as possible. If someone is injured on the premises, be as helpful as you can. And last, keep your dog away from customers."

Uchtmann says being careful is not enough. It is important for fruit and vegetable growers to appreciate the risks of liability inherent to their businesses and to take appropriate steps to insure these risks. Adequate insurance protection is a must.

Growers should thoroughly discuss their operations with their insurance carriers, paying particular attention to any possible need for premises liability, product liability and workmen's compensation coverages.

"You can't prevent the lawsuit," says Uchtmann. "But making sure your operation is as safe as possible and having appropriate insurance coverage are the best two ways to manage the liability risk."

Editor's note: For more information, contact Donald Uchtmann, Agricultural Law Specialist, Cooperative Extension Service, 151 Bevier Hall, University of Illinois, Urbana, IL 61801 or call (217) 333-1829.

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