

<<侵权法>>

图书基本信息

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内容概要

在美国法律教育界与律师实务界，“美国法精要”是颇具特色的一套书，其特点是简捷明快、深入浅出。

美国法学院的学生将其作为课外教材，由此掌握美国各主要部门法的精义；执业律师也经常借助这套书，以迅速了解某些部门法的相关情况。

我国的读者通过阅读原汁原味的英文来学习美国法律，可有效提高法律英语水平，促进与美国同行的对话与交流。

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作者简介

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章节摘录

书摘 书摘 The reasonable person is, of course, a creature of the law's imagination. He or she is not the average or typical person, but rather an idealized image of such a person--a composite of the community's judgment as to how the typical community member ought to behave in each of the infinite variety of circumstances and activities in which there is a potential or actual risk of harm to the actor or others. The test is not what the typical respectable citizen in fact does, nor what the majority of the Community does, since the behavior (e.g. jaywalking) may fall below the community's standards of safety. On the other hand, the reasonable person is not perfect or infallible. She is permitted errors of judgment, mistakes in perception; she may even be momentarily distracted. She is human. But such errors must have been reasonable or excusable under the circumstances; they must have been consistent with the exercise of ordinary care. Attributes of the Reasonable Person. Knowledge, Experience and Perception. Tort liability for physical harm is founded upon defendant's knowledge (actual or constructive) of the risk and of some degree of probability that it will be realized (harm to the plaintiff). In negligence (as distinguished from intentional torts), the actor does not desire the injurious consequences of his conduct; he does not know that they are substantially certain to occur, nor believe that they will. There is merely a risk of such consequences sufficiently great that the ordinarily prudent person will anticipate them and guard against them. Thus, the normal actor (plaintiff or defendant) is charged with his actual knowledge and perceptions, and also with certain basic knowledge common to the community and with the ability to observe and understand his environment. Obviously, conduct must be judged in light of what the actor actually knows and observes, since the reasonable person always takes this into account. If she by chance discovers that a product has a latent dangerous defect, if she sees another vehicle approaching without lights at night, she must act accordingly, even though she would not have been negligent in failing to discover or observe these things.

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媒体关注与评论

总序总序 在美国法律教育界与律师实务界，这套“美国法精要”是颇具特色的一套丛书。

这套书最突出的特点当推它们的简捷明快、深入浅出。

每种书均由富有教学经验的法学教授执笔，在三、四百页的篇幅内介绍某一法律部门的基本原理、主要法规和重点案例。

由于这些特点，这套丛书受到了无数美国读者的欢迎和喜爱。

众多法学院的学生将这套书作为课外的辅助教材，由此掌握美国各主要部门法的精义。

执业律师也经常借助这套书，以迅速了解自己尚未熟习的某些部门法，或者温习过去曾经学过的某些课程。

相信这套丛书也能赢得国内读者的欢迎。

无论是法律专业的本科生、研究生，还是执业律师或其他人士，都能从这套丛书中获得有关美国法律的大量知识，对自己的学习和工作有所助益。

此外，通过阅读原汁原味的英文来学习美国法律也应能提高读者的法律英语水平，促进与美国同行的直接对话与交流。应原出版者的要求，这套丛书的国内版增加了中文前言，以介绍美国各部门法的概况、每种书的内容及原书作者等等。

这些前言作者都是在美国受过专业教育或从事专门研究的法律学者甚或专家。

相信他们的介绍会对读者有所帮助。

Happy reading!

1999年4月

于哈佛法学院

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