

99050012163000, 99050012163000

Trade ban

Heruntergeladen am 28.06.2025

<https://fimportal.de/xzufi-services/11022320/L100001>

| Modul | Sachverhalt |
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| Leistungsschlüssel | 99050012163000, 99050012163000 |
| Leistungsbezeichnung I | Trade ban |
| Leistungsbezeichnung II | |
| Typisierung | 2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug |
| Quellredaktion | Hessen |
| Freigabestatus Katalog | unbestimmter Freigabestatus |
| Freigabestatus Bibliothek | unbestimmter Freigabestatus |
| Begriffe im Kontext | |
| Leistungstyp | Leistungsobjekt mit Verrichtung |
| Leistungsgruppierung | Gewerbe (050) |
| Verrichtungskennung | Untersagung (163) |
| SDG-Informationsbereich | |
| Lagen Portalverbund | Betriebsaufgabe und zeitweise Stilllegung (2160100) |
| Einheitlicher Ansprechpartner | Nein |
| Fachlich freigegeben am | 25.03.2014 |

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|----------------------------|--|
| Fachlich freigegeben durch | Hessian Ministry of Economic Affairs, Energy, Transport and Regional Development |
| Handlungsgrundlage | https://www.gesetze-im-internet.de/gewo/_35.html https://www.gesetze-im-internet.de/gewo/_12.html https://www.gesetze-im-internet.de/gewo/_45.html https://www.gesetze-im-internet.de/gewo/_35.html https://www.gesetze-im-internet.de/gewo/_146.html https://www.gesetze-im-internet.de/gewo/_148.html https://www.gesetze-im-internet.de/vwgo/_80.html https://www.rv.hessenrecht.hessen.de/lexsoft/default/hessenrecht_rv.html?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&documentnumber=1&numberofresults=72&fromdoctodoc=yes&doc.id=jlir-StrGHEV3P18#docid:5408051,1,20151001 https://www.gesetze-im-internet.de/gewo/_35.html https://www.gesetze-im-internet.de/gewo/_12.html https://www.gesetze-im-internet.de/gewo/_45.html https://www.gesetze-im-internet.de/gewo/_35.html https://www.gesetze-im-internet.de/gewo/_146.html https://www.gesetze-im-internet.de/gewo/_148.html https://www.gesetze-im-internet.de/vwgo/_80.html https://www.rv.hessenrecht.hessen.de/lexsoft/default/hessenrecht_rv.html?pid=Dokumentanzeige&showdoccase=1&js_peid=Trefferliste&documentnumber=1&numberofresults=72&fromdoctodoc=yes&doc.id=jlir-StrGHEV3P18#docid:5408051,1,20151001 |
| Teaser | |
| Volltext | <p>If a trader is unreliable in relation to a trade carried out, the competent authority is obliged to prohibit the trade in whole or in part if this is necessary for the protection of the general public or the employees of the business.</p> <p>In particular, persistent arrears of payments to the tax office or the health insurance funds may lead to the competent authority initiating proceedings to prohibit trade against the entrepreneur concerned.</p> <p>The trade can be prohibited</p> <ul style="list-style-type: none"> • the trader, • its authorised representatives, and |

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- Persons who are entrusted with the management of the commercial enterprise.

Depending on the activities to which the unreliability relates, individual other or all trades may be affected by the prohibition.

Withdrawal of business license: If the business activity carried out requires a permit (examples: security companies, transport companies, insurance mediation) and the trader is unreliable, the business license must be revoked. In addition, a trade ban may be considered.

Insolvency: If a company is in insolvency, the authority may not initiate or pursue any trade prohibition or permit revocation proceedings with regard to the trade that was carried out at the time of the insolvency application (so-called blocking effect), unless the trade ban or the revocation of permission is based on facts that lie outside the insolvency proceedings. The blocking effect applies during

- insolvency proceedings,
- the opening of insolvency proceedings (insofar as precautionary measures have been ordered),
- the implementation of an insolvency plan.

Grounds for prohibition (examples):

- Violation and/or disregard of tax and social security obligations
- lack of economic motivation and lack of professional responsibility
- inability to ensure proper business operations; lack of economic capacity (lack of financial resources)
- disorderly financial circumstances
- Submission of the affidavit of the property / arrest warrant to compel the affidavit of the assets
- Criminal or administrative offence proceedings

Erforderliche Unterlagen

Voraussetzungen

According to settled case law, a person who offers no guarantee that he will properly exercise his trade in the

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future is unreliable in the sense of trade law. The exercise of a trade by a person who is unwilling or unable (regardless of fault) to ensure the proper conduct of his business required in the public interest is not lawful.

Kosten

The costs shall be borne by the trader. There may be

- Procedural costs (usually according to time spent, but at least 66.00 euros),
- Administrative costs related to required cancellations.

Verfahrensablauf

- The competent authority shall inform the person concerned in writing that proceedings have been initiated against him to prohibit the trade.
- The Chambers may be heard prior to the prohibition. If danger is imminent, the hearing may be omitted. In any case, the chambers will be informed.
- The person concerned will be informed of the facts ascertained in detail. There will be an opportunity to comment on the facts (in writing or to be recorded by the authority).
- If the facts prove to be given, the authority issues an order prohibiting the exercise of the trade.
- The person concerned receives a written notification of the order. This expressly refers to the possibility of an action for avoidance ("legal remedy instruction").

Order of immediate enforcement: If the competent authority orders immediate enforcement, the suspensive effect of an action for avoidance ceases to apply. The commercial activities concerned must cease immediately and the trade must be deregistered. At the request of the person concerned, the competent administrative court may restore the suspensive effect of the action for annulment.

Suspension of enforcement: The person concerned may apply to the competent authority for suspension of enforcement.

Deputy continuation: The competent authority may, upon request, authorise the continuation of the business by a representative who ensures the proper management of the business.

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Apply for re-authorisation: If the facts which led to the prohibition of trade have ceased to exist, the competent authority may, at the request of the person concerned, at a later date authorise the prohibited trade to resume.

Legal consequences of a trade ban: The trade ban applies throughout Germany. With the date of legal force ("legally binding note" to the prohibition order), the business operation must be discontinued and properly deregistered. Due to other laws (e.g. GmbH Act), further reporting obligations may exist.

Intentional or negligent violations of a prohibition order can be punished with a fine of up to 5,000.00 euros.

Anyone who persistently, intentionally or negligently violates a prohibition order must expect imprisonment or a fine.

A legally binding prohibition is entered in the Central Trade Register at the Federal Office of Justice.

Bearbeitungsdauer
Frist

- Statement on the facts: within the time limit specified by the competent authority:
- Action for annulment of the prohibition order: within one month of their notification (in writing or for transcription at the competent administrative court)
- Application for re-authorisation to practise business: at the earliest after one year (in special cases also before)

weiterführende Informationen
Hinweise
Rechtsbehelf
Kurztext
Ansprechpunkt

To the regional council, which is locally responsible for the business premises of the unreliable trader.

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|-------------------|-------------------------------|
| Zuständige Stelle | |
| Formulare | |
| Ursprungsportal | Gewerbeuntersagung, Trade ban |