



CONSUMER NEWS

SAN DIEGO CITY ATTORNEY'S OFFICE

New Laws

January 2012

This newsletter outlines some of the new laws in California that impact consumers. Unless otherwise noted, these laws are effective as of January 1, 2012.

EXPIRED PRODUCTS:

Retailers often place expiration dates on food and medical products to advise consumers of the freshness of the product. Until now, there has been no law that prohibited retailers from selling food or medical products solely because of an outdated expiration date. Existing law makes it illegal to sell adulterated or misbranded food or drugs, so, if the product has spoiled or an ingredient has become inert, it would be illegal to sell the product.

Now, there are two new laws prohibiting retailers from selling or offering for sale (1) an over-the-counter drug after the expiration date and (2) infant formula or baby food after the "use by" date. These are

infractions for which a retailer may be fined up to \$10 per day for each item sold or offered for sale after the expiration date.

SAFE BODY ART:

The Legislature has established minimum statewide standards for tattooing, body piercing, and the application of permanent cosmetics. Anyone offering these services must register each year with the health department and complete a training program about blood borne pathogens exposure control. The law requires that consumers provide written consent to the work.

Practitioners must use detailed safety procedures that require them to maintain a clean and sanitary environment.

It is a misdemeanor to tattoo or apply permanent cosmetics to a minor under the age of 18, regardless of parental consent. Practitioners are prohibited from providing body piercing to a

minor without the consent and presence of a parent or guardian. It is illegal to pierce or apply permanent cosmetics to the nipples or genitals of a minor, regardless of parental consent.

The law also addresses "branding" which is the process by which a mark is burned into the human skin tissue with a hot iron or other instrument, leaving a permanent scar. It is illegal to perform branding on a minor under 18 regardless of parental consent.

Facilities offering body art are subject to inspection by health department officials, and unsafe instruments may be impounded. The facilities must make their records available for inspection.

AIRBAG FRAUD:

It is illegal for an automotive repair dealer to charge a consumer to replace an airbag that has been deployed and not

to replace the airbag. The crime is punishable by a fine of \$5000 and up to one year in jail.

REAL ESTATE FRAUD:

The Real Estate Commissioner is required to provide on the internet information regarding the status of every license issued by the Dept. of Real Estate including suspensions and revocations of licenses. Now consumers can check the status of a real estate professional's license when deciding whether to do business with that person.

Real Estate Appraisers are regulated by the Office of Real Estate Appraisers. That office is now required to provide information on the license status of real estate appraisers on the internet.

COUNTERFEIT CD/DVD:

Piracy of compact discs (CDs) and Digital Video Discs (DVDs) continues to be a problem for legitimate manufacturers.

There is new law that requires manufacturers of these discs to place a permanent mark on the disc indicating the name of the manufacturer and the state where it was manufactured.

Law enforcement officers now have authority to inspect commercial manufacturing facilities where these discs are made to verify compliance with this law. Anyone manufacturing discs that do not have these markings or use markings of another manufacturer (like

counterfeiters) is subject to prosecution and fines of up to \$25,000 for the first offense and \$250,000 for the second offense.

TANNING BOOTHS:

It is now illegal for a person under age 18 to use an ultraviolet tanning device at a tanning facility, even if the person has parental consent. There is an exception for a person who has been prescribed "phototherapy" by a doctor to treat a disease.

SELLING ANIMALS:

It is illegal to sell or give away as part of a commercial transaction, a live animal on a street, highway, public right-of-way, parking lot, carnival, or boardwalk. There are exceptions for events held by 4-H clubs; county fairs; live animal markets; animal shelters; fish sales at piers, wharfs and farmer's markets; pet stores; and cat and dog shows.

LYING ABOUT MILITARY BACKGROUND:

One of the ways that a con artist gets victims to pay him/her money is by finding a way to identify with the victim. We tend to trust people who are like us or have had similar experiences to us. For active duty and retired military members, they may be more likely to trust a person who is a veteran of former military person.

It is now illegal for a person to claim to be a veteran or member

of the Armed Services, with the intent to defraud another, or for a person to wear a military decoration and falsely represent himself or herself to have been awarded a military decoration with the intent to defraud.

CAFFEINATED BEER:

It is now unlawful for anyone to sell, manufacture, import or distribute beer to which caffeine has been directly added as a separate ingredient. Anyone committing this crime faces up to six months in jail and a fine of \$1000.

ENVIRONMENTAL LAWS:

It is illegal to possess, sell, offer for sale, trade, or distribute shark fin. There are exceptions for anyone holding a specified license or permit from the Dept. of Fish & Game and for restaurants using up their supply of shark fin obtained before January 1, 2012.

It is illegal to sell a plastic product labeled "compostable," "home compostable," "marine degradable," "biodegradable," "degradable," or "decomposable" unless the product meets the applicable American Society for Testing Materials (ASTM) standards or the Vincotte OK Compost HOME Certification.

SELLING COUGH SUPPRESSANT TO MINORS:

It is illegal for a person or business to willfully and knowingly supply, deliver, or give possession of a drug, material or substance containing

