



# CONSUMER NEWS

## SAN DIEGO CITY ATTORNEY'S OFFICE

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### New Laws

There are a number of new laws that became effective January 1, 2009, which protect consumers. Below is a synopsis of each law. To view the actual laws, go to [www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html)

#### **FOOD SAFETY**

- It is a misdemeanor for a slaughterhouse to process, butcher, or sell meat or products of nonambulatory animals for human consumption. Stockyards and others who deal with animals to be sent to slaughterhouses are also prohibited from shipping nonambulatory animals to the slaughterhouses. The punishment for these crimes is up to 1 year in jail and a fine of \$1000 to \$20,000. Penal Code §599f.
- Beginning July 1, 2009, food facilities including restaurants must disclose nutritional information about the food they serve on a brochure or menu insert or on a table tent

on the table. Health and Safety Code §114094.

- It is an infraction for a food facility to store, distribute, serve, or use a food containing artificial trans fat. It is punishable by a fine between \$25 and \$1,000. Health and Safety Code §114377.

#### **IDENTITY THEFT**

- It is a misdemeanor to intentionally remotely read or attempt to read a person's identification document using Radio Frequency Identification (RFID), without the person's knowledge and consent. The punishment is up to 1 year in jail and a fine of \$1,500. Civil Code §1789.79(a).

- A consumer placing a security freeze on his/her credit report may make the request by regular mail and is no longer required to do it by certified mail. A credit reporting agency has 3 business days to place the freeze after receiving the request. A credit reporting agency may only charge \$5 to place or remove a security freeze for a consumer 65 or older. Civil Code §1785.11.2 and §1785.15
- The crime of identity theft can be tried in the county where the victim lived at the time of the offense, the county where the theft of the information occurred, or the county where the person used the

information for an illegal purpose. Penal Code §786.

### **UNLICENSED CONTRACTORS**

- When a person has had his/her contractor's license revoked and contracts after that date when he/she has no contractor's license, it is punishable by a minimum of 90 days and maximum of 1 year in jail, and a fine of between \$4,500 and \$10,000 or 20% of the contract price, whichever is greater. Business and Professions Code §7028.

### **REAL ESTATE FRAUD**

- Advertising as a real estate broker without being licensed is a misdemeanor punishable by a fine of \$20,000. A corporation that violates this law may be fined \$60,000. Business and Professions Code §10139.
- Foreclosure consulting contracts which are negotiated primarily in a language other than English must be translated into that language. Civil Code §1632.
- Homeowners have 5 business days to cancel a foreclosure consulting contract after signing it and may cancel by fax or email. Foreclosure consultants are prohibited from entering into an agreement with a homeowner after a foreclosure sale. Foreclosure consultants are prohibited from taking a power of attorney from a homeowner for any purpose. Civil Code §2945.2 and §2945.3.
- Anyone offering to perform or performing services as a foreclosure consultant without

being issued a registration certificate by the State Dept. of Justice or without maintaining a \$100,000 surety bond is guilty of a misdemeanor and can be punished by up to 1 year in jail or a fine of between \$1,000 and \$25,000. Civil Code §2945.45.

### **COUNTERFEIT PRODUCTS**

- It is now illegal to make a product that has a spurious mark that is identical with, or confusingly similar to, a registered mark and is used or intended to be used, on or in connection with the same type of goods or services for which the genuine mark is registered. Penal Code §350.

### **CHARITIES**

- Specified nonprofit and charitable organizations may conduct remote caller bingo games if the city or county where they are located has passed an ordinance permitting it. Otherwise it is a misdemeanor to conduct a remote caller bingo game and the punishment is up to 6 months in jail and a fine of \$1,000. Penal Code §326.3.

### **UNSOLICITED MAIL SOLICITATIONS**

- Private for-profit businesses that solicit payment by means of an unsolicited mailing offering to assist individuals in dealing with a state or local government agency must state on the envelope that they are not associated with the government agency and provide the contact information for the government agency they reference. Business and Professions Code §17533.6.

- Companies or individuals sending sweepstakes solicitations cannot represent that a person has been specially selected or that a person is being notified for a second or final time unless it is true; that sweepstakes materials are authorized, issued or approved by a court; or create a false impression as to the source or approval of sweepstakes materials. Sweepstakes sponsors cannot charge a fee as a condition of receiving a prize. Business and Professions Code §17539.15.

### **RECYCLERS & JUNK DEALERS**

- Junk dealers and recyclers must report the following information to the police about personal property they receive: name and address of the seller, identification number of seller, a complete and accurate description of the property, a certification from the seller that it is his/her property, and a fingerprint. Failure to keep these records or failure to produce the records for law enforcement is a misdemeanor punishable by between 30 days and 1 year in jail, and a fine of \$500 to \$1,000. Business and Professions Code §21608.
- Junk dealers and recyclers are prohibited from paying for nonferrous material (copper, copper alloy, stainless steel, or aluminum except beverage containers) unless they comply with specified laws, including waiting 3 days to pay the seller. Business and Professions Code §21608.5.
- Junk dealers and recyclers are prohibited from paying for

newspapers or for CRV containers unless they comply with specified record keeping requirements. Business and Professions Code §21608.6.

- It is illegal for a person to buy or receive, for purposes of salvage, any part of a fire hydrant or fire department connection, including a bronze or brass part or fitting, that has been stolen or obtained in any manner constituting theft or extortion, if the person knows the property is stolen. Penal Code §496e.

### **JEWELRY SELLERS & MANUFACTURERS**

- It is a misdemeanor for a manufacturer or supplier of jewelry to knowingly and intentionally manufacture, ship, sell or offer for sale or promotional purposes jewelry containing an unlawful level of lead. The punishment is up to 1 year in jail and a fine of \$5,000 to \$100,000. Health and Safety Code §25214.3.3
- It is a misdemeanor for a manufacturer or supplier of jewelry to knowingly and with intent to deceive falsify a document or certificate required to be kept or produced regarding the lead content of jewelry. This is punishable by up to 1 year in jail and \$50,000. Health and Safety Code §25214.3.4.

### **PROHIBITED SALES**

- It is a misdemeanor for a manufacturer or supplier of a package to knowingly and intentionally offer for sale or promotional purposes a package or packaging components that violates the Toxics in Packaging Prevention Act. This is

punishable by a up to 1 year in jail and a fine of between \$5,000 and \$100,000. Health and Safety Code §2521.22.1.

- It is a crime to manufacture or commercially sell an undetectable knife by exporting it out of California for commercial, dealer, wholesaler, or distributor sale. Penal Code §12001.1.
- It is a crime to manufacture, import, keep for commercial sale, or offer or expose for commercial sale, hard plastic knuckles or hard wooden knuckles. Penal Code §12020.1.
- It is illegal to sell or offer for sale a counterfeit Clean Air Sticker. Vehicle Code §4463.

### **WAVE POOL SAFETY**

- Wave pool operators must make available, at no charge, life vests for use by nonswimmers, children under 48 inches in height, and any other patron who requests one. Any child under 48 inches in height must wear a life vest in a wave pool and children under 42 inches in height must be accompanied by an adult. Operators must have lifeguards and must have regular periods of time without breaking waves. Health and Safety Code section §115950, §115951 and §11592.

If you are interested in more information on upcoming bills and/or the legislative process you can visit the California State Assembly website at [www.assembly.ca.gov](http://www.assembly.ca.gov) or the

California State Senate website at [www.sen.ca.gov](http://www.sen.ca.gov).

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