



# CONSUMER NEWS

## SAN DIEGO CITY ATTORNEY'S OFFICE

### Prices

October 2009

Consumers often make purchasing decisions based at least in part on price comparisons. Retailers know this. Some retailers disguise price increases in creative ways. When a retailer does this, he/she gains a competitive advantage over retailers who are more honest about their price increases. Therefore, prosecutors, like those in the City Attorney's Consumer & Environmental Protection Unit, pay attention to things like surcharges and fees that retailers add to their prices.

#### *EXAMPLES OF PRICE ADDITIONS:*

Examples of charges that retailers add to prices include:

- Energy surcharges
- Handling charges, often combined with shipping charges for mail order items
- Service charges, often appearing on restaurant bills which may or may not be a tip for wait staff

- Hazardous waste handling fees that are not required by the government
- Convenience fees that are mandatory
- Facilities fees
- Rounding prices up to the nearest nickel, dime, or dollar
- Resort fees
- Parking fees that are charged regardless of whether the consumer will park a car at an event
- Re-stocking fees charged when a consumer returns a product for a refund

Sometimes these fees can equal 20% to more than 100% of the price of the product.

Businesses do not have to include in their price representations either the actual amount of sales taxes or fees that the government mandates that businesses collect at the time of sale. An example of such a fee is the California Refund Value (CRV) which retailers must collect when selling recyclable beverage containers.

#### *ADVERTISING LAWS:*

In California, there are several laws that prohibit this type of business practice.

First, there is the general prohibition against advertising in a way that is false or misleading. When a business advertises a price but then requires consumers to pay more than that price for the goods or services, the price representation is false. The California Business & Professions Code declares this behavior to be a crime, punishable by a fine of up to \$2500 and 6 months in custody per violation.

In addition, there are laws that govern the sale of goods when one represents the goods are being sold at a particular price. California's Weights & Measures law which is also in the Business & Professions Code, provides that it is unlawful to charge a customer a higher price at the time of sale than the lowest price currently advertised or posted.

A retailer who disguises price hikes by advertising prices that are never honored because the retailer adds to

those charges additional amounts for things like the cost of the energy to heat food sold, runs afoul of these laws. This behavior constitutes unfair competition which is also prohibited by state law.

*LOCAL PROSECUTION:*

The San Diego City Attorney's Office is working with our local District Attorney's Office to address these practices in our community.

Prosecutors rely on citizens to report their experiences with retailers.

If you observe a retailer who is not honoring the prices advertised for goods or services and is charging these or other types of add ons, please call the City Attorney's Consumer Hotline at (619) 533-5600. You will be asked to complete a written complaint form and provide any relevant documents such as your cash register receipt.

The work of consumer prosecutors depends on help from concerned citizens.

Local prosecutors have successfully addressed these types of violations in the past. Based on local prosecutions, the Courts have ordered business owners who charged energy surcharges and those who rounded up bills to the next nickel, to pay penalties and restitution. These prosecutions help level the playing field for law-abiding businesses to compete.

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**San Diego  
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The information provided in this newsletter is intended to convey general information and is not intended to be relied upon as legal advice.

To report violations of consumer protection laws, call the City Attorney's Hotline at **(619) 533-5600**.