



CONSUMER NEWS

BONNIE DUMANIS, DISTRICT ATTORNEY

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Legislative Update

The Legislative Update is a list of the new laws that will affect consumers. If not otherwise stated, these laws went into effect on January 1, 2006.

Unlicensed contractors will now face harsher punishment for a third or subsequent conviction. Business and Professions Code 7028 sets forth a jail sentence of between 90 days and one year; and/or a fine of between \$4,500 and the greater of either \$10,000 or 20% of the contract price

Junk Faxes have always been annoying but now they are illegal. Business and Professions Code 17538.43 states it is a misdemeanor to send one if the sender or recipient is located in the State of California. More good news, individuals can bring their own legal action, in civil court, for \$500 per violation, (per fax).

The Anti-Phishing Act of 2005.

Phishing is the act of posing as a legitimate business or individual to trick someone into revealing their personal information (i.e. social security numbers, bank account numbers or passwords, etc.) Phishing can be done via

an email, webpage or other internet communication. Business and Professions Code sections 22948, 22948.1, 22948.2 and 22948.3, give the Attorney General, and the District Attorney's Office the authorization to bring legal actions to stop people from continuing to phish and to recover money for past violations, up to \$2,500 per incident.

So, if a phisher sent out 100 emails posing as your bank, he could be made to pay \$250,000 in penalties.

Civil Code 1747.09 requires that companies print only the last 5 digits of your credit card number, (instead of the entire number) on your receipt. This has previously been in effect. But now the same rule applies to Debit Cards, as well.

Small Claims Court Increase. The amount Californian's can sue for has been increased from \$5,000 to \$7,500 thanks to Code of Civil Procedure section 116.221.

Rechargeable Battery Recycling act of 2006 requires that a retailer take back used rechargeable batteries at no cost

to the consumer and make available information about rechargeable battery recycling. You can find more details in Public Resources Code section 42451-56.

Notary Public: Anyone who coerces or influences one to perform and improper notarial act (this include any act required of a notary republic,) can be charged with a misdemeanor, according to Government Code section 8225.

A Registry of Charitable Trusts Fund has been established and will be administered by the Department of Justice. All charities doing business in California are required to register with and pay fees to the State. Those fees will now be deposited into the trust fund. The money shall be used by the Attorney General to maintain and operate the Registry of Charitable Trusts and to provide members of the public with access to reports filed with the Attorney General. This is all per Government Code 12587.1

Health and Safety Code sections 110625 & 111300 have

to do with the intentional adulterating of food, drugs or devices. Anyone who intentionally adulterates these items and intended to cause injury can be charged with a misdemeanor/felony and punishable by up to 3 years in prison and \$10,000 fine.

If a defendant has any money on him when he is arrested the court can now specify that that money be given to the victim as restitution per **Penal Code section 1202.4**.

Identity Theft.

Penal Code section 483.5 prohibits the possession of a document making device. This includes, but isn't limited to, an implement, tool, equipment, impression, laminate, card, template, computer file, computer disk, electronic device, hologram, laminate machine, or computer hardware or software. This new misdemeanor law is punishable by up to one year in jail, and \$1,000 fine.

Another new misdemeanor law appears in Penal Code section 530.5(e). The punishment is up to one year in jail and a fine up to \$1,500 for acquiring, transferring or retaining possession of, with intent to defraud, the personal identifying information of a person who has been deployed to a location outside of California.

Penal Code section 186.2 adds *identity theft* to the definition of "Organized Crime"

Penal Code section 532b makes it a misdemeanor crime to falsely claim to be a veteran or member of the armed forces of the United States. You must have the intent to defraud though, saying it a cocktail party isn't enough.

Section 652 of the Penal Code is a new infraction that is punishable by a \$250 fine if you perform or offer to perform body piercing on a minor without the consent of a parent or guardian.

The Car Buyer's Bill of Rights

goes into effect on July 1, 2006. This bill requires dealers who sell used vehicles for \$40,000 or less to offer buyers a contract cancellation option that permits buyers to return the vehicle. (Not applicable to RV's or Motorcycle's). There are limits to the amount a dealer may charge for this option, such as \$75 for a vehicle selling for \$5,000 or less, up to a max of one percent of the purchase price for a vehicle selling for more than \$30,000 but less than \$40,000. There is a time period in which the option must be exercised, and restocking fees can range from \$175 to \$500 depending on the purchase price. Miles driven must be specified in order for the buyer to remain eligible for the option. Dealer cannot specify less than 250 miles.

This bill of rights also prohibits, among other things, dealer from negotiating the terms of a sale or lease contract then adding additional charges without telling the consumer or getting

the consumer's consent. Dealers cannot inflate the installment payment or down payment. Dealers cannot sell a vehicle as "certified" if the vehicle has any of the following issues. The dealer knows or should have known that the odometer doesn't indicate the actual mileage; the vehicle has sustained frame damage; the vehicle is sold as is; or the dealer fails to provide the buyer with a completed inspection report; of the title to the vehicle is inscribed the notation "Lemon Law Buyback", "salvage", "Junk" or other similar designation.

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 or the California State Senate website at www.sen.ca.gov

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