

Reminder! All California Businesses That Accept Credit And Debit Cards Now Must Truncate Credit Card Information On All Transaction Receipts

March 5, 2009

As of January 1, 2009, and in contrast to federal law, California Civil Code Section 1747.09 requires that no more than the last five digits of a credit or debit card number be printed on both the electronically-printed card receipt retained by the business as well as the receipt provided to customers. See [CAL. CIVIL CODE § 1747.09\(a\)-\(d\)](#). If you or your business accept credit cards or debit cards for payment you must ensure that all machines and registers are in compliance with these truncation requirements. Businesses that fail to comply with revised Section 1747.09 face potentially significant consequences, including enforcement actions by state agencies, and, perhaps more significantly, individual and class action lawsuits brought by cardholders.

A brief look at the recent history of class actions filed under the federal truncation statute – the [Fair Credit Reporting Act \(“FCRA”\)](#), which applies only to transaction receipts provided to customers – may offer guidance on how California courts may deal with actions brought under Section 1747.09.

Beginning in December 2006, plaintiffs’ attorneys began filing class action lawsuits against a broad spectrum of retailers and other businesses in California based largely on the failure to truncate expiration dates on electronically printed credit card receipts provided to consumers, and sought statutory penalties of between \$100 and \$1,000 per transaction for each “willful” violation alleged, plus attorneys’ fees, costs and punitive damages. See [15 U.S.C. § 1681n](#). In order to prevent consumers, who had not suffered any actual damage, from recovering potentially annihilating statutory damages against retailers and other merchants, Congress passed the [Credit and Debit Card Receipt Clarification Act](#), which added a provision to the [Fair and Accurate Credit Transactions Act \(“FACTA”\)](#) preventing consumers from obtaining statutory damages for willful expiration date violations taking place between December 4, 2004 and June 3, 2008. Further, several courts refused to certify a class on the theory that a class action is not superior to other methods for the fair and efficient adjudication of the controversy. However, no similar legislation has been enacted by the California legislature, and it remains to be seen whether courts will deny certification of a class action brought under Section 1747.09, as several courts have done in FACTA cases, to limit abusive lawsuits brought by consumers under California state law.

Accordingly, if you have not already done so, you should act swiftly to ensure that all machines and registers are in compliance with the truncation requirements. To accomplish this, consider auditing machines and registers by printing out receipts both retained by the company and issued to the customer. If any violation of Section 1747.09 or FACTA is detected, corrective action should be taken

to limit potential liability and to decrease the risk of a potential lawsuit.