



PRIVACY & SECURITY LAW



REPORT

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California's Song-Beverly Credit Card Act: The Past, Present, and Future



By JOHN W. MCGUINNESS

Introduction

A customer approaches the cash wrap at her favorite retailer, after selecting a new pair of shorts. When she gets there, the retailer employee requests the customer's name and telephone number, and enters the information into the cash register or point of sale termi-

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nal. The employee rings up the item, the customer hands the employee her credit card, then the transaction is completed. This is a situation that occurs countless times each day. However, in California, it may subject a retailer to a lawsuit under the California Song-Beverly Credit Card Act, California Civil Code section 1747.08 (the "Act" or "section 1747.08"). This statute, which provides for up to \$1,000 in civil penalties per violation, has been construed by California plaintiffs' attorneys to prohibit **any** request for personal identification information (for example, address, telephone number, e-mail address or even zip code) from customers paying by credit card in California. Suits have been brought against merchants ranging from large nationally-known retailers to Internet sellers of downloadable software, and targeted retailers face potentially significant damages.

The aim of this article is to provide those persons and businesses that regularly engage in credit card transactions in California, most notably retail merchants, with

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