

CALIFORNIA DEPARTMENT OF JUSTICE

INFORMATION PAMPHLET NO. 3

# ON GUARD

A GUIDE FOR THE  
CONSUMER

59453

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ATTORNEY GENERAL



This pamphlet is one in a series of publications prepared for distribution to the public by the California Department of Justice, Evelle J. Younger, Attorney General.

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- TABLE OF CONTENTS -

MESSAGE FROM ATTORNEY GENERAL EVELLE J. YOUNGER.....	1
INFORMATION ON RETAIL INSTALLMENT CONTRACTS.....	2
Terms Used in Contracts That You Need to Understand....	2
Questions & Answers About Retail Installment Contracts.....	3
WHAT YOU SHOULD KNOW ABOUT A RETAIL REVOLVING ACCOUNT.....	4
UNDERSTANDING WARRANTIES.....	5
Typical Questions & Answers About Warranties.....	6
HOW TO CORRECT INACCURATE CREDIT REPORTS.....	7
Some Typical Questions & Answers About Inaccurate Credit Reports.....	7
WHAT ABOUT CREDIT CARDS?.....	8
DOOR-TO-DOOR SALES.....	9
THE THREE-DAY COOLING OFF PERIOD - PROTECTION FOR YOU IN DOOR-TO-DOOR SALES.....	10
HINTS ON BUYING A NEW OR USED CAR.....	11
HINTS ON AUTOMOBILE REPAIRS.....	12
LAW ON APPLIANCE REPAIR.....	13
DANCE STUDIO CONTRACTS.....	15
HEALTH STUDIO CONTRACTS.....	15
NEW PRESCRIPTION DRUG LAW.....	16
DRUG PRICE LISTING LAW.....	17
WHAT TO DO IF YOU HAVE BEEN VICTIMIZED.....	17
BUNCO SCHEMES - WHAT TO WATCH FOR.....	18
PROTECTION AGAINST CRIMES OF FORCE.....	24

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ACQUISITIONS

**A MESSAGE FROM  
ATTORNEY GENERAL  
EVELLE J. YOUNGER**

California is one of the most progressive states in the area of consumer protection, but the best protection is an alert and informed citizenry.

It is with this purpose in mind that the Office of the Attorney General has prepared this publication.

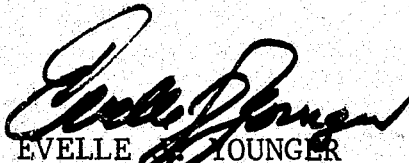
In our complex society today, consumers face more difficulties than ever before in making informed consumer decisions.

The purpose of this booklet is not to serve as a substitute for legal advice, but to inform you of consumer law and problems so that you may avoid being victimized.

In recent years, the Legislature has passed vital legislation in the area of consumer protection, and the Attorney General's Consumer Protection Unit has successfully prosecuted numerous consumer fraud cases in order to protect and serve the people of our state.

However, prevention is much preferable to prosecution--for businesses, the majority of which are honest and fair, and for all of us as consumers and taxpayers.

It is our hope that this booklet will prove a valuable preventive tool for you in your consumer transactions.

  
EVELLE J. YOUNGER  
Attorney General

# INFORMATION ON RETAIL INSTALLMENT CONTRACTS

## BEFORE YOUR SIGN SUCH A CONTRACT:

1. Read the entire contract carefully. If the salesman won't give you time to read it, leave. If you don't understand something, ask about it.
2. Do not sign the contract if it contains any blanks. If blanks appear in the contract, draw a circle with a line through it in the blank spaces before you sign. This avoids filling in of blank spaces by the firm at a later date.
3. Make sure that all of the promises are in writing. If the salesman has told you something you believe is important, ask him to write it on the contract. It doesn't have to be typed. It can be written in pen, pencil or crayon. If he won't do it, no matter what the excuse, do not sign the contract.
4. Make sure that all the terms of the contract are contained in a single document.
5. Be sure to obtain an exact copy of the contract at the time you sign it. If it is not a carbon copy, have the copy signed by the person who made it out and have them acknowledge in writing that it is an exact copy.

You should also keep in mind that certain charges or costs are required to be disclosed in the contract. This is the law. These charges include such terms as "cash price, insurance costs, finance charges and annual percentage rates."

## **Glossary of Terms You Need to Understand**

"CASH PRICE" - This is the amount you would pay for goods or services if you were making the purchase in cash.

"FINANCE CHARGES" - This is the cost you pay for obtaining credit.

"ANNUAL PERCENTAGE RATE" (sometimes called "A.P.R.") - That's the cost of credit expressed in a percentage. By comparing the annual percentage rate, you will be able to determine which store is offering you the best credit terms; that is, the lowest percentage rate. This is particularly important in the purchase of a car or when you borrow money.

"INSURANCE COSTS" - Some sellers of merchandise encourage their customers to purchase life or disability insurance. This type of insurance usually benefits the seller more than

When the seller does not keep his promises or the goods are defective, the bank or finance company cannot tell you that "You must take it up with the seller. However, you still must make your payments to us." Some bank and finance company employees do not know that the buyer does not have any greater duty to pay them for merchandise than the buyer would have to pay the original seller.

Consequently, if you believe you have been victimized by the seller, be sure to inform the bank or finance company of your complaint. If you would have a legal defense against the seller, you have the same defense against the bank or finance company.

## **WHAT YOU SHOULD KNOW ABOUT A RETAIL REVOLVING ACCOUNT**

Unlike a retail installment contract (described in previous pages), a revolving account can be opened with a given company without first making a purchase.

Therefore, a seller must disclose to you before the first transaction, in a single written document which you may retain, the cost of credit and the terms of payment.

The items which must be disclosed include an explanation of the time period in which credit may be extended without incurring a finance charge, and the minimum periodic payment that is required.

The seller may charge a finance charge on the outstanding balance which is to be computed month-to-month. If the outstanding balance does not exceed \$1,000, a 1-1/2 percent per month (18 percent per year) finance charge may be imposed. For example, if the outstanding balance of the previous billing period was \$500, then a \$7.50 finance charge may be imposed. There is a \$1.00 minimum charge which can be made. Thus, if the outstanding balance was \$5.00, a \$1.00 charge may be imposed.

If the outstanding balance is more than \$1,000, then a 1 percent finance charge per month (18 percent per year) on the amount in excess of \$1,000 may be imposed. Suppose that the outstanding balance for the previous billing period was \$2,000. The seller could impose a \$25 finance charge. You would pay a 1-1/2 percent finance charge for the first \$1,000 and a 1 percent finance charge on the remaining \$1,000.

Some stores first deduct the amount you paid the previous month before determining the finance charge. Some do not. It is legal for a store not to deduct the amount you paid before determining the finance charge, but the practice is more expensive for you.

Where the outstanding balance is greater than \$1, the seller must send the buyer a statement at each billing cycle (usually each month). This statement must include the following:

The amount and date of each purchase.

The total amounts credited to the account during the billing cycle.

The amount of any finance charge.

The balance on which the finance charge was computed and a statement of how the balance was determined.

## **UNDERSTANDING WARRANTIES**

Each year, many persons purchase items which either do not work or fall apart shortly after being purchased. Some of these items do not have written warranties, and when there are warranties, they are sometimes confusing and difficult to understand. Recent law has clarified requirements.

HERE IS SOME INFORMATION ABOUT WARRANTIES (OR GUARANTEES-- THEY ARE REALLY THE SAME):

There are two types of warranties; "express" and "implied". An "express" warranty is in writing and sets forth the duties of the seller or manufacturer in the event the purchased item does not function properly.

Whether or not there is anything in writing, new goods cannot be defective, and if they are, the manufacturer is required to repair or replace them.

The only time "implied" warranties of merchantability are not created is when the goods are sold "as is" or "with all faults".

When a new item is purchased "as is" or "with all faults", the consumer must be informed in writing that the entire risk as to the quality and performance of the goods is with the buyer, and should the goods prove defective, the buyer assumes the entire cost of all necessary servicing or repair.

If you have an "express" warranty and the manufacturer maintains service or repair facilities within California, the manufacturer must repair the goods within 30 days. If, because of the weight or size or method of attachment, the consumer cannot reasonably take the product back to the store or repair facility, the manufacturer has to repair the goods at the buyer's residence or pick it up and deliver it when repaired.

If you have an "express" warranty and the manufacturer does not maintain service or repair facilities in California, then you may return the goods to any store which sells the identical item for replacement or repair at the store's option.

Under federal law, all warranties must now be described as "full" or "limited". A "full" warranty provides, of course, much better protection than a "limited" one. In either case, a retailer must make available copies of warranties before the product is sold.

### **Typical Questions & Answers About Warranties**

Most people are not aware that they have warranty protection even if there is no express warranty. Implied warranties are not generally understood.

**QUESTION:** What types of implied warranties are there?

**ANSWER:** There are two types of implied warranties; an implied warranty of merchantability and an implied warranty of fitness.

**QUESTION:** When is an implied warranty of merchantability imposed?

**ANSWER:** An implied warranty of merchantability will exist every time an item is sold, unless it is sold "as is" or "with all faults".

An implied warranty of merchantability means that the item is fit for the ordinary purposes for which it is designed to be used; is adequately contained, packaged or labeled; and will conform to the promises or statements of fact made on the container or label.

**QUESTION:** When does an implied warranty of fitness arise?

**ANSWER:** An implied warranty of fitness arises when the seller has reason to know the purpose for which the goods are purchased, and the buyer is relying on the skill and judgment of the seller to select and furnish suitable goods.

**QUESTION:** What is the duration of an implied warranty?

**ANSWER:** If the goods purchased do not have an express warranty, an implied warranty will exist for a period of one year. If the goods purchased have an express warranty, the implied warranty will have the same duration as the express warranty, but in no event shall be less than 60 days or more than one year. If there is a "full" warranty, the implied warranty may last even longer. If you see any warranty which states that the consumer is waiving or giving up any implied warranties, please contact the office of the Attorney General, Consumer Protection Unit.



## **HOW TO CORRECT INACCURATE CREDIT REPORTS**

In most cases, the credit issuer (usually a department store or lender) is not the same company which investigates your credit rating, and if you are denied credit or the cost of credit is increased because of information contained in your credit report, you may take these steps:

Send a letter to the company denying you credit, and request the identity of the credit reporter.

Your letter must be sent within 60 days after you learn that the cost of credit to you has been increased, or that you were denied credit.

Once the identity of the credit reporting agency is discovered, you can find out what is contained in your credit report by going in person to the credit reporting agency. You can also telephone the credit reporting agency, but you should first make a written request and provide proper identification. You, of course, must be willing to pre-pay the telephone charges or accept the charges.

If you don't want to visit the credit reporting agency, you may receive a written report if you are willing to pay a small fee.

If you dispute the accuracy or completeness of the report, you can require the credit reporter to reinvestigate his findings. If the company cannot verify such information, it must be removed from the report.

Should the reinvestigation not solve the dispute, you have a right to file a brief statement with the credit reporting agency setting forth your side of the dispute.

From that time on, any credit report on you must contain your written statement.

Remember that if the information contained in your credit report is deleted or if a dispute is filed, you should tell the credit reporter to notify all of the companies to whom the credit report on you was sent during the last six months.

### **Typical Questions & Answers About Inaccurate Credit Reports**

**QUESTION:** What is the credit reporting agency required to tell me concerning my credit record?

**ANSWER:** A credit reporting agency is required to disclose (a) the nature and substance of all information in the credit reporter's files; (b) the sources of the information; (c) the creditors to whom the reporter has furnished reports within the preceding six-month period.

**QUESTION:** Are there certain types of information which are prohibited from being contained in my credit report?

**ANSWER:** Yes. For example, a credit reporter cannot include the following information in your credit report:

- Bankruptcies which are more than 14 years old from the date of judgment.
- Suits or judgments which are more than seven years old or until the statute of limitations has run, whichever is longer.
- Paid tax liens which are more than seven years old.
- Accounts assigned to collection agencies which are over seven years old.
- Arrests which are more than seven years old.

## **WHAT ABOUT CREDIT CARDS?**

Many Californians possess a number of credit cards, and often wonder about their unauthorized use.

As to a lost or stolen credit card, the law provides that you are not liable if it is lost or stolen before it is received by you. After it has reached the card holder, the card holder is not liable for any unauthorized use of the card if he notifies the card issuer.

This must be done within a reasonable time by telephone, telegraph, letter or any other reasonable means after discovery of the loss or theft.

Even if reasonable notice is not given, the card holder will be liable for no more than \$50, and then only for transactions which occurred before giving notice.

If you have an inquiry about your credit card account, you should write the card issuer at the address where you usually make your payments. The card issuer should respond within 60 days.

If the firm fails to respond within 60 days, it is not entitled to finance charges until the response is made.

Also keep in mind that any billing errors must be corrected within 60 days from the date on which an inquiry concerning the billing error was mailed.

Buyers also have a defense against a credit card issuer. For example, if you purchased an item in California and the purchase price exceeded \$50, you may assert the same defenses against the card issuer that you have against the seller of the merchandise.

This means that if you purchased an item which does not work, or buy as a result of misrepresentation, and you believe that you should not have to pay the seller, then you can assert the same defenses against the card issuer.

However, before you can assert these defenses on the card issuer, you must first make a written demand on the retailer with respect to the purchase, and attempt in good faith to obtain reasonable satisfaction.

If you fail to obtain such satisfaction from the retailer, you should give written notice to the card issuer specifying the retailer, date of purchase, amount thereof, the goods or services purchased, the nature of the defense you have against the retailer, and those acts you have taken in attempting to obtain satisfaction from the retailer.

## **DOOR-TO-DOOR SALES**

The next time your doorbell rings, be on guard, and listen carefully to what the salesman has to say.

Some high pressure salesmen may misrepresent the purpose of their business and who they are in order to gain entry to your home. Instead of telling you they are "salesmen", some may claim they are in marketing research, public relations or advertising, so listen carefully.

**BEFORE BUYING FROM A DOOR-TO-DOOR SALESMAN, YOU SHOULD OBSERVE THE FOLLOWING:**

Wait and think. Time is your greatest friend. If you take time to think about the offer that is made to you, you can avoid "buyer's remorse". By waiting a day or two you will have time to read all the terms of the contract.

You will also have time to shop competitively in order to find out what others are charging for the same or similar terms. You may even wish to call the Better Business Bureau of your community to determine whether any complaints have been filed against the company, or you may just change your mind.

Some salesmen, on the other hand, will not want to give you additional time. They may try to pressure you into signing a contract without giving you sufficient time to think it over by telling you "this offer is only being made to a limited number of people and I must have your answer immediately or you will not qualify" or "our company will not be coming back into this area again."

**READ THE CONTRACT BEFORE SIGNING IT**

Make sure you understand all the terms and conditions. If the salesman made certain promises to you, be sure that these

promises are written in the contract. If he is not willing to do so, the promises are meaningless.

If you decide to purchase the item or service, be sure to get a copy of the contract. Make certain that all the blanks are filled in. If you are paying by check, make the check payable to the company, not the salesman.

## **THE THREE-DAY COOLING OFF PERIOD Protection for You in Door-to-Door Sales**

For your protection, California and federal law now permits the buyer of products or services (including courses of instruction, but not including real estate brokers, physicians, attorneys, etc.) which are sold in the home to cancel the contract if these conditions exist:

1. The contract must be in an amount more than \$25.00. The law applies to cash sales as well as installment sales.
2. The sale was made in the home or at any place which is not the seller's normal business office. The law applies even if the buyer signs in his home, but the seller signs the contract later in his office.

If you sign a contract, you have until midnight of the third day following the date you sign to cancel. Sundays and holidays are not counted in the three days. The contract has to explain all of this, and there must be a cancellation form attached to the contract which you can tear off and send in. The salesman must write on that form the date of the contract and the date by which you must cancel. The salesman must also tell you of your right to cancel.

If this form is not attached to your contract or the wrong form is used or the salesman doesn't tell you about your right to cancel, you may cancel at any time until the seller gives you the correct form and information.

If the sales presentation was principally in Spanish, or other language, the contract must be in that language.

While not required, it is a good idea to send your notice of cancellation by certified mail, return receipt requested. This way, you keep the receipt from the post office as proof of the mailing.

If you, the buyer, cancel, the company must return all of your down payment and can make no charge for the cancellations. You must, of course, be willing to give back the goods if you have received any.

You do not have to return it to the seller's place of business or mail it anywhere; and if the seller fails to pick up the goods in 20 days, you may keep them.

Some customers assume that they are fully protected by the three-day cooling off period. However, if you give money in advance to a salesman, you may never see him again and the company may be difficult to find.

## **HINTS ON BUYING A NEW OR USED CAR**

Buying a new or used car is probably the most important purchase a person can make next to buying a home. Because of this, it is necessary to be familiar with contracts.

**BEFORE YOU SIGN A CONTRACT, DO THE FOLLOWING:**

1. Read the entire contract carefully. If the salesman won't give you time to read it, leave. If you don't understand something, ask about it.
2. Do not sign the contract if it contains any blanks. If blanks appear in the contract, draw a circle with a line through it in the blank spaces before you sign. This avoids filling in of blank spaces by the firm at a later date.
3. Make sure that all of the promises are in writing. If the salesman has told you something you believe is important, ask him to write it on the contract. It doesn't have to be typed. It can be written in pen, pencil or crayon. If he won't do it, no matter what the excuse, do not sign the contract.
4. Make sure that all the terms of the contract are contained in a single document.
5. You must be sure to obtain an exact copy of the contract at the time you sign it. Ask for copies of everything you sign. The company must give you copies except for documents that will be filed with the Department of Motor Vehicles.

**HERE'S SOME ADVICE ABOUT PURCHASING A CAR ON TIME:**

1. Compare the prices of the car of your choice at several dealers.
2. Just as you shop for the best car buy, you should also shop for the best credit buy. If the automobile dealer offers to finance your car, you should compare the annual percentage rate and finance charge, which must appear on the contract, with the annual percentage rate and finance charges that banks, credit unions or other lending institutions charge. This way you can get the car of your choice for the lowest possible price.

To help you further in the purchase of your new or used car, here are some typical questions and answers, prepared by the Consumer Protection Unit of the California Department of Justice:

**QUESTION:** Is it advisable to buy a used car "as is" or "with all faults"?

**ANSWER:** If you purchase a car "as is" or "with all faults", the seller is not responsible for defects in the automobile. It is a much riskier purchase.

**QUESTION:** Is there a maximum finance charge which can be imposed?

**ANSWER:** Yes, the maximum finance charge shall not exceed approximately 22 percent annual percentage rate.

**QUESTION:** Can the automobile be repossessed if prompt installment payments are not made?

**ANSWER:** If you do not make prompt installment payments, your automobile may be repossessed by the seller or his assignee (the company or person to whom the dealer has sold the contract). In addition, the seller or assignee, after selling your car and taking credit for his costs of repossession and sale, may sue you for the additional amount of money you still owe on the contract. Thus, it is very important to make installment payments on time.

## **HINTS ON AUTOMOBILE REPAIRS**

The Bureau of Automotive Repair requires all companies that repair automobiles to be registered with the State. If you believe a repair dealer has made false or misleading statements, has used unfair methods, has sold unneeded parts, or charged more than his estimate, call the bureau at its toll-free number, (800) 952-5210.

**BEFORE YOU AUTHORIZE REPAIRS ON YOUR CAR, THESE PRECAUTIONS SHOULD BE TAKEN:**

1. The automobile repair dealer is required to give a written estimate for labor and parts. The repair dealer cannot charge in excess of the estimate without having oral or written consent, after it is determined that the cost or repair will exceed the estimate, and before the repair work not included in the estimate is done. If there is no written estimate, you are not required to pay for the repairs. If the bill is more than the estimate and you did not give your consent for that additional amount before the repairs were done, you do not have to pay more than the estimate.

2. As soon as you sign a document which relates to automobile repairs or financing, be sure to obtain a copy of that document which the repair dealer must give you.
3. It is unlawful for an automobile repair dealer to allow a customer to sign any work order which does not state the repairs requested.
4. You are entitled to keep your old parts, except those which are under warranty or those too large or too heavy to be conveniently returned. You must request that your old parts be returned to you at the time the work order is taken if you want them back.

## **LAW ON APPLIANCE REPAIR**

California law requires all persons or companies in California who repair, service or maintain electronic equipment and major home appliances to register with the Bureau of Repair Services in the State Department of Consumer Affairs. The law defines major home appliances as refrigerators, freezers, ranges (including microwave ovens), washers, dryers, dishwashers and room air conditioners. Electronic equipment is defined as radio, TV, and stereos, including those used in a private motor vehicle.

The law in general prohibits (1) untrue or misleading advertising, (2) making of false promises likely to induce customers to authorize repairs, (3) any conduct constituting gross negligence in repairs, and (4) fraud or dishonest dealings.

### **SUGGESTIONS TO CONSUMERS TO AVOID DECEPTIVE OR FRAUDULENT PRACTICE:**

1. Be wary of bait advertising; for example, ads offering free or extremely low-priced service calls.
2. Request an estimate for repairs. (The repair dealer is required to honor your request. Some dealers charge for the estimate, however.)
3. Make sure the dealer is registered with the Bureau of Repair Services.
4. Choose an established repair dealer if possible.
5. When choosing a service dealer, request price of a service call and exactly what it includes. Most service call charges include up to 1/2 hour in the home. Parts are extra if not covered by warranty.
6. Reputation is very important in this field. Ask your friends for recommendations.

7. Obtain a claim receipt when allowing a service dealer to pick up your set or appliance, or when leaving it at his shop.

#### CONSUMER TIPS ON APPLIANCE SERVICE:

The best time to find out about service is before it is needed or, at best, before buying an appliance. When you buy, ask your dealer whether he provides service. If he doesn't, ask him to refer you to a service agency. To maintain your warranty, most manufacturers require that servicing be done through a factory or authorized service location. Repairs by independent servicemen may be perfectly satisfactory, but could invalidate your warranty. So check with the dealer or the manufacturer first to see if such repairs are covered by the warranty. Do-it-yourself servicing can be dangerous and may damage your equipment or appliance.

Read the warranty carefully before making a purchase. Know what protection you have against basic faults in workmanship and parts, and whether all or part of the labor costs will be covered. When a product is out of warranty, service costs will depend on the parts, labor and travel time.

Before you call the serviceman, check plugs, fuses, pilots and controls. Is it turned on? More than one quarter of all service calls would be unnecessary if these things were done. Review the instruction manual.

When you call for service, give the model number of the appliance. Describe as well as possible precisely what is wrong. The more information you provide, the better service you'll get.

#### TIPS ON HANDLING YOUR TV REPAIR JOB:

1. Before calling a service dealer, make sure the set is plugged into a live outlet and the antenna wires are securely fastened to the terminals.
2. Do not remove the back of the set because certain parts store a charge of electricity and can be highly dangerous even after the set is unplugged.
3. Find out how much a service call costs and exactly what is included in the charge. In most cases, you can save the price of a home call by personally taking the set into the shop.

#### REGISTERING A COMPLAINT WITH THE STATE BUREAU OF REPAIR SERVICES:

If a problem develops, try to work it out with the dealer or serviceman. If you are still not satisfied, write or call to register a complaint with the Bureau of Repair Services. The standard complaint form may be obtained by writing or telephoning the bureau. Repair services are listed in the white pages of the telephone directory under "Consumer Complaint and Protection Coordinators".



## **DANCE STUDIO CONTRACTS**

Learning to dance can be a fun-filled and exciting event in your life. It can also be very expensive.

Before you sign a contract for dance lessons, there are certain things you should know.

**CONTRACT REQUIREMENTS** - Every contract must be in writing and you are entitled to an exact copy at the time you sign. Payments or financing cannot be extended over a period in excess of two years; lessons must begin within twelve months after the contract is signed; and the contract must contain a written statement of the hourly rate for the dance lessons and must inform you of your right to cancel. The law prohibits contracts for more than \$2,500.

**RIGHT TO CANCEL** - A consumer may cancel a dance contract at any time without having to give a reason, but in order to cancel you must give written notice at the address specified in the contract.

If notice is given within 180 days after you receive a copy of the contract, the dance studio must refund all your money within ten days, except for the amount which is for the lessons already received.

If notice is given after 180 days, the dance studio is entitled to 10 percent of the unpaid balance and payment for the lessons already received. Of course, if the cancellation is because of the dance studios failure to fulfill its promises because of unfair or deceptive practices, no such penalty is allowed.

In the event of death or disability, payments on the dance contract need no longer be made--except for those lessons furnished prior to death or disability.

And remember that if pre-payments were made for lessons, the dance studio must promptly refund the portion paid for the unused lessons.

## **HEALTH STUDIO CONTRACTS**

Physical fitness is a growing concern of California residents, and in order to protect the public, health studio contracts are also regulated by law.

The law prohibits contracts over \$500; the services must begin within six months of the signing of a contract; and the customer is relieved of payment for either death or disability.

## NEW PRESCRIPTION DRUG LAW

A new prescription drug law has been enacted which makes it possible for consumers to save money on drug purchases. This new law, effective May 1, 1976, changes sections of the Business and Professions Code and amends the Penal Code which previously made it a misdemeanor for a pharmacist to substitute any different article for a drug prescribed by brand name, and now allows him to do so (Business and Professions Code 4047.6 and 4047.7; Penal Code section 380).

Under specified circumstances, the law now permits a pharmacist to substitute for a prescribed drug product another drug product with the same active chemical ingredients of the same strength, quantity and dosage form, and of the same generic drug type (the chemical or generic name as accepted by the FDA).

When such a substitution is made, the pharmacist must communicate to the patient the use of the cost-saving drug product and place the name of the dispensed drug product on the label.

A pharmacist may not substitute under the following circumstances:

1. A prescriber (i.e., doctor) may indicate orally or in writing (or by checking and initialling a box) that he does not want any substitution for a prescribed drug. Under these circumstances, a pharmacist may not substitute.
2. The pharmacist may not substitute unless the drug product selected costs the patient less than the prescribed product.
3. Within 120 days after this law takes effect, the Director of the State Department of Health is required to formulate and maintain a list of generic drug types and drug products which have been clinically determined to be biologically and/or therapeutically inequivalent, which, if substituted, would pose a threat to the health and safety of patients receiving prescribed medication. No pharmacist shall dispense a generically equivalent drug product if the drug product and its generic drug type is included in the formulary list.

This new law applies to any prescription, including those presented by or on behalf of persons receiving assistance from the federal government. Further, there is no liability on the prescriber for an act or omission by a pharmacist in selecting, preparing, or dispensing a drug product pursuant to the law.

In those instances where drug products may be substituted, this new law will result in cost savings to California consumers because there is great difference in costs between various drug products of the same generic drug type.

## **DRUG PRICE LISTING LAW**

This law requires the State Board of Pharmacy to compile a list of the 100 prescription drugs most frequently sold in the state and to distribute that list to the pharmacies throughout the state. Each pharmacy is required by this law to post, in a place conspicuous to customers, this list of 100 drugs and the retail price it charges as to all of these drugs they offer for sale.

The law also requires a pharmacist or his employee, upon any requests (whether by phone or letter or in person), to give the retail price of any drug sold at that pharmacy. Previously, pharmacies often would not give out prices over the telephone.

Ask your pharmacy about the generic drug prices. Unless your doctor specifically marks his prescription "no substitute", a druggist can then offer you the same drug under a different trade name at a substantial savings. Each drug has a generic (or scientific) name. That same drug may be marketed under many different trade names. A well-advertised drug may be many times more expensive than a lesser-known brand. Doctors often prescribe the better known drug and might not even know the name of the identical, less known drug.

## **WHAT TO DO IF YOU HAVE BEEN VICTIMIZED**

**NOTIFY THE PERSON OR COMPANY AGAINST WHOM YOU HAVE A COMPLAINT.**

Only too often when consumers feel they have been victimized, they are ready to go "all the way up to the Supreme Court", but in their haste, the most obvious approach is overlooked. Frequently, complaints can be resolved by speaking to the person or company against whom you have a grievance. If the salesman won't help, contact the manager or owner. Write a letter of complaint to the head of the company if oral complaints don't help.

**IS THE SMALL CLAIMS COURT PROPER?**

Many disputes can be efficiently and economically resolved by bringing an action in Small Claims Court. If the amount in controversy does not exceed \$750, Small Claims Court is often a good remedy. A nominal filing fee is required, and neither side is permitted to be represented by a lawyer. Each side explains his position to the judge, bringing such witnesses or documents as he feels necessary to support his position. You should note that even if you win, collection may be a problem, particularly without a business address. Further information as to the procedure to be followed may be obtained from the clerk of the Small Claims Court in your community.

IF THE AMOUNT OF CONTROVERSY EXCEEDS \$750, SEE AN ATTORNEY.

When the amount of the controversy exceeds \$750, it may be advisable to seek legal advice from a private attorney. If you do not have your own attorney, you may wish to contact one through the Lawyer's Reference Service of your local Bar Association. Some organizations provide free legal services to those who cannot afford an attorney (such as Legal Aid and Neighborhood Legal Services), and local Bar Associations may also have the names of these organizations in your community.

NOTIFY THE APPROPRIATE AGENCY.

The principal way in which public agencies, such as the office of the California Attorney General, discover when state laws are being violated is by receiving complaints from victims. Civil, criminal and administrative prosecutions have been the direct result of these consumer complaints. If you believe that you have been victimized by a consumer fraud, you should send a letter of complaint to the proper agency. Among the agencies you may contact are the California State Department of Consumer Affairs, the Federal Trade Commission, District Attorney's offices in the various counties, and various consumer protection bureaus now operated by a number of cities and counties. Check your phone book or information operator for the closest consumer protection agency. If you are not certain which is the appropriate agency, send the complaint to the Attorney General's Consumer Protection Unit, and it will be forwarded. The Attorney General's Consumer Protection Unit is located as follows:

Sacramento - 555 Capitol Mall, Sacramento 95814  
Los Angeles - 3580 Wilshire Boulevard, Los Angeles 90010  
San Francisco - 350 McAllister Street, San Francisco 94102  
San Diego - 110 West "A" Street, San Diego 92101

## **BUNCO SCHEMES - WHAT TO WATCH FOR**

Bunco schemes are many and varied--unfortunately--and here are only a few examples.

**THE PIGEON DROP.** One variety of the Pigeon Drop requires two operators, and let's call them Smith and Jones. Smith will engage the victim in polite conversation, and shortly thereafter Jones appears. He pretends to find a large sum of money in a paper bag or envelope, and attracts the attention of Smith and the victim.

Phony documentation indicates the money came from an unlawful or subversive source, and the three individuals (Smith, Jones and the victim) try to decide what should be done with the money.

Smith claims to work for an attorney, and all three agree that he should contact his boss to determine the course of action. When Smith returns he indicates that they can keep the money since it was the result of "unlawful activities" and they are the only ones who know about it.

However, they are advised in the event that someone discovers they found the money, they should protect themselves by placing "good faith security" in the attorney's safe.

Smith and Jones, each in turn, go to their respective banks and purport to withdraw several thousand dollars in cash, carefully placing it in an envelope. They then escort the victim to his bank.

After the victim withdraws his money, all the money is placed in a single envelope. Smith volunteers to take the money to the attorney. Jones and the victim, trusting Smith, wait outside the attorney's office. When Smith returns, the victim is told that the attorney wants to see him.

The victim goes inside the building, and soon realizes that there is no attorney. Quickly returning to the outside of the building, the victim discovers that Smith and Jones have disappeared with his money.

The Los Angeles Police Department Bunco Squad estimates that victims of the pigeon drop lose in excess of \$500,000 annually in Los Angeles alone.

PHONY BANK EXAMINER. The victims of this scheme are upstanding citizens who are anxious to do their share in fighting crime by cooperating with law enforcement.

The victim, while sitting in the privacy of his own home, receives a telephone call from a self-proclaimed "bank examiner". After the bank examiner cleverly gets the victim to identify the name and location of his bank, the bank examiner explains that the bank suspects one of its employees has been pilfering funds, and asks the victim's help.

The victim is warned that the success of the investigation depends on his or her ability to remain silent, following instructions explicitly, and, above all, not to contact anyone concerning the investigation.

What the bank examiner did not tell the victim was that his name had been carefully selected from the telephone book by three or four con men. These masters of deceit select names from the telephone book which may belong to older single women.

After selecting the names, the team of con men begins the tedious task of calling possible victims until a cooperative one is found.

Once they have a victim, she is told to withdraw a specific amount of money--usually several thousand dollars--from the

bank. Shortly after the withdrawal is made, the bank examiner arrives at the victim's home, identifies himself, and proceeds to mark the bills. He then gives the victim a receipt.

Several days later, when the victim has not heard from the bank examiner, she calls the bank, only to find out that she has been swindled.

THERE ARE SOME GENERAL RULES FOR SELF PROTECTION FROM BUNCOS AND CONFIDENCE MEN:

Don't discuss your personal finances with strangers.

Don't expect to get something for nothing, especially from strangers on the street.

Don't draw cash out of a bank at the suggestion of a stranger.

Do call the police and report any such approach as outlined above.

THE WILLIAMSON GANG. This is a band of relatives and friends who offer to oil residential roofs. The victims are frequently elderly, and are warned of the necessity of oiling one's roof.

The gang uses old crankcase oil or cheap diluted low-grade oil for the roof. The oiling has no useful effect on the roof, and the victim ends up paying around \$100 for unneeded work and materials.

Here's a tip: Operators, such as the Williamsons, who "construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building" are defined as contractors under state law.

If the aggregate contract price for their labor and materials is \$100 or more, a license from the State Contractor's License Board is needed. Contracting without a license is a misdemeanor.

MEDICAL QUACKERY. The hallmark of the quack is fraud. Surely no form of deception is as cruel as that kind which not only takes the money of the victim, but all too frequently his health or life.

Ways by which the quack may be identified:

1. Any person who guarantees to be able to cure a disease is suspect. Thus, any high-pressure advertising phraseology is indicative of, at best, an unethical practitioner, at worst, an out-and-out quack.
2. A statement along the line that the practitioner has a secret formula or a special treatment known only to him should arouse suspicion. The usual claim of the quack is that "the A.M.A. medical trust prevents this effective form of therapy from being made generally available to

the public."

3. Responding to an advertisement will often lead to exposure to quackery. In California, only persons licensed under the Medical Practice Act are authorized to practice medicine and surgery. Physicians so licensed are not permitted by the ethics of their profession to advertise their services in any of the communication media.
4. Great success by quacks is achieved through direct mailing. Retired people, and those in the senior citizen group, are especially vulnerable to "cures" promoted through the mails. Elaborate schemes are used for getting the victim to purchase all sorts of cure-it-yourself plans and devices.
5. Food fadism and false nutritional therapy are special types of quackery that flourish in cults, and are supported by some organizations. While it is true that a proper diet may be of value in disease prevention and treatment, vitamins, special foods and a dietetic regimen are safest when prescribed by a physician.

Those who rely on the advertising media and cultists pronouncements for self-diagnosis and treatment run the risk of not getting proper medical care where such is necessary to save or prolong life.

#### Ways to protect against quacks:

An accurate diagnosis by a qualified physician eliminates fraud. Once cause of the illness is determined, therapy will be recommended by the diagnostician or there will be referral to a specialist. Anyone who is ill may call the "Referral Service" of his local County Medical Association. That service will provide the names of several qualified physicians.

Don't fall for claims for absolute cure. Elderly people and sufferers from such diseases as rheumatism, arthritis, and cancer, are special targets for the quack. Where these diseases have been properly diagnosed, the recommendations of a qualified physician should be followed. No claims for absolute cure rest upon a scientific foundation. Such claims should be discussed with a physician, National Arthritis and Rheumatism Foundation, National Cancer Society, or the Better Business Bureau.

**HEARING AID RACKET.** A type of quackery with particular appeal to senior citizens involves a hearing aid scheme.

Salesmen, who neither have the skill or training to test hearing, may endeavor to sell hearing aids to senior citizens whether they need them or not.

A salesman may gain entry into the victim's home by representing that he has a free hearing device for the victim. Once inside the home, he may go to work using machines not intended for hearing tests.

Sometimes, victims buy hearing aids they do not need, or may even buy two hearing aids. Many people cannot successfully wear hearing aids. Many could purchase hearing aids which are just as good or better, but much less expensive.

Some senior citizens sign contracts because they are frightened by the salesman, or because they just want to get rid of him. Whatever the reason, once the contract is signed, the victim must make timely payments or he may be subjected to abusive collection practices by the company or its assignees.

Do not buy hearing aids from anyone until you have (1) checked with your own doctor; and (2) checked prices and the reputation of the seller. If possible, see if you can test a hearing aid for a few days before you have to purchase.

#### The law on hearing aids:

Under state law, there is a Hearing Aid Dispensers Examining Committee under the Board of Medical Examiners within the California Department of Consumer Affairs. The law states that the only person who may fit or sell hearing aids in California is one holding a valid license as a hearing aid dispenser from the Board of Medical Examiners, issued after passing the committee's examination. Fitting or selling a hearing aid without such a license is a misdemeanor.

The Board of Medical Examiners has also the power to deny, suspend, or revoke a license for fraud or misrepresentation in fitting or selling a hearing aid; for improper and unnecessary fitting of hearing aids; and for other reasons.

If you are unhappy with your hearing aid purchase, you may do the following:

1. Contact your hearing aid dispenser to seek adjustment.
2. If you receive no remedy, notify the Ethics Committee of the Hearing Aid Association of California.
3. These steps may resolve your problem. If you still get no remedy (or in case of suspected misrepresentation), you should contact the Hearing Aid Dispenser's Examining Committee, State Board of Medical Examiners, 1020 "N" Street, Sacramento, California 95814.

**PYRAMID SALES.** In a pyramid sale, or multi-level distributorship organization, individuals pay up to \$5,000 to become distributors. Usually, this is in the form of payment for merchandise.

The company's representative, who is invariably a distributor, will hold "opportunity meetings" where potential victims are



indoctrinated with stories of how a distributor can easily earn \$100,000 or more in his spare time.

Potential victims are told that all a distributor has to do is recruit other people into the program. The distributor makes money both from his recruits and from the recruits his recruits bring into the program. He is told he can make money on sales, too, but the main source of income is recruiting, or as it is called in this business--"head hunting".

Once a person becomes a distributor, instead of earning \$100,000 at the end of one year--as he was told--he may find himself with a garage full of the product which he cannot sell.

The "catch" is that the distributor can only really make money if he brings in other distributors who are also going to bring in distributors. Either the company sets a maximum of distributors, in which the last group solicited are defrauded, or no limit is set, but you soon run out.

Many multi-level distributorship organizations or pyramid clubs are in violation of the Penal Code. Some multi-level distributorships or pyramid clubs are franchises and are required to comply with the State's Franchise Investment Law.

**BUSINESS OPPORTUNITIES.** Advertisements sometimes appear in newspapers promising high income and secured investments and assuring the reader that no experience is necessary, no selling is necessary, age is not a barrier, and the business can be operated part-time while you work a regular job. The investment is usually between \$2,000 and \$8,000 although it can be both lower and higher. The investment takes different forms but the pitch is the same: high and secured income and no experience necessary. Some of the forms are as follows:

1. Vending machines: The company sells you ten machines and uses its "locator" to locate them in stores. The machines are usually coin-operated and you and the store share in the profit. You merely have to fill the machines (sometimes not even that, e.g. video game machines) and collect the money. The "security" comes in the form of the machines you now own. Sometimes, there is a guarantee of profits. The problems are as follows:
  - a. You may not receive the machines.
  - b. The machines are almost always highly overpriced and difficult to re-sell.
  - c. The promises of profit are almost always false. Many people lose money on each machine because of theft and repairs.
  - d. The store often loses interest very quickly since there is little profit.

- e. The company usually goes out of business within a year.

If the machines dispense soup (or other product), the company will imply that it is connected with the manufacturer. There is almost never a connection. Investor losses in California total many millions of dollars every year.

2. Racks: The same pitch is made as with the vending machines. The product, however, appears in racks (dispensing stockings, film, jewelry, or almost anything) instead of machines.
3. Work-at-Home schemes: The company sells you molds and you make products at home to sell to stores, or to sell back to the company which, it claims, is in desperate need of products to sell to its vast market. The molds are often second-rate, the products are usually non-saleable. The company soon closes without purchasing more than necessary to keep you from complaining to law enforcement agencies. The company sometimes claims your workmanship is inadequate.
4. Worm growing: Similar to work-at-home schemes, except that you buy worms which reproduce rapidly and then sell them through the company or on your own.
5. Coupon books: The company sells coupon books to groups for resale. When these groups sell the books, you get a profit.

The variations of these gimmicks and schemes are endless, but the basic pitch is the same. If you are tempted to invest, ask the company to supply you with the following information in writing:

- a. the average profit made by investors in the past year;
- b. how long the company has been in business; and
- c. whether you can put your investment in trust or in escrow until three months after you have received the goods.

Don't be fooled by fancy offices, airs or clothing. The victims are often the landlord and the stores who gave the company credit. The cars used by the company are usually leased.

## **PROTECTION AGAINST CRIMES OF FORCE**

So far in this pamphlet, matters of consumer protection have been discussed, but readers may also appreciate some advice

on protection against burglary, robbery and other crimes of force.

#### SOME SUGGESTIONS FOR PROTECTION IN YOUR HOME INCLUDE THESE:

Keep doors and windows locked, day and night, home or away; when windows are opened for ventilation, be sure screens are secured. Utilize types of locks and window catches approved by law enforcement; many burglars turn away if entry is difficult and time consuming.

Burn a light at night. When away, always burn a light and occasionally change the location of the light.

Keep the garage locked at night and when away.

Install a peek hole in the front door.

Do not keep large sums of money in the home. If you must, tell no one where the money is hidden.

The most dangerous type of burglar is the one who enters an occupied home at night. He is almost always armed, so do not try to capture him. Your best protection is to securely lock your house at night. If you hear someone in your house at night, just lie still or, if you prefer, make some small noise to let him know you are awake. His main interest is to escape.

If you keep a gun in the house, do not go for it when you first awake or in the dark or semi-dark. You are at a disadvantage. You may even kill someone in your own family.

If you allow a solicitor inside your home, do not leave him alone at any time. Some phoney solicitors have been known to steal while occupants were out of the room or to commit acts of violence.

If someone represents himself to be an official or inspector, examine his identification carefully; if in doubt, call the department he claims to represent.

#### SUGGESTIONS TO PROTECT YOURSELF WHEN WALKING AT NIGHT:

Do not carry large sums of money.

Do pick a well-lighted route, walk near the curb, and avoid passing close to shrubbery, dark doorways or other places of concealment.

Do leave the bus at a well-lighted intersection.

Ladies should carry their purses upside down with the hand on the latch. If someone grabs the purse, everything will spill on the ground.

If you are ever the victim of a robbery, the police will ask you:

His height, age, weight, and build; color of eyes and hair; complexion, type and color of clothing; if he wore gloves, hat, etc.; type of weapon and which hand held it; his voice, any accent, type of language.

#### SELF DEFENSE:

If you are attacked, your best defense is a loud scream or blast on a loud whistle, and an attempt to run to a lighted building or area. Carrying and trying to use weapons against an attacker may provoke deadly violence in reaction.

#### AUTO THEFT:

The auto thief is an opportunist, and to prevent this, you should always take your keys and lock the doors. Packages should be placed in the trunk or on the floor where they cannot be seen.

**END**