



"Zip It" on Asking for ZIP Codes: New Supreme Court Decision Makes It a Violation of Credit Card Act

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Last week, the California Supreme Court, in *Pineda v. Williams Sonoma Stores, Inc.* 2011 LEXIS 1355 (Feb. 10, 2011), ruled that the collection of a ZIP code by a retailer violates California Civil Code §1747.08 (Credit Card Act).

Failing to comply with the Credit Card Act subjects a retailer to maximum penalties of \$250 for the first violation, and \$1000 for subsequent violations, which may lead to significant liability on the part of retailers. This is particularly damaging for retailers that seek their customers' ZIP codes for promotions, marketing and marketing research.

The California Supreme Court ruled, in part, that ZIP codes are part of customers' addresses, which state consumer privacy laws forbid stores from requesting during credit card transactions.

The Court did highlight that Section 1747.08 contains exceptions permitting the collection of ZIP code information, particularly when a credit card is being used as a deposit or for cash advances, when the entity accepting the card is contractually required to provide the information to complete the transaction (such as a gas station) or is obligated to record the information under federal law or regulation, or when the information is required for a purpose incidental to but related to the transaction, such as for shipping, delivery, servicing, or installation.

Finally, and significantly, the Supreme Court rejected Williams-Sonoma's request that the Supreme Court's decision not apply retroactively. As such, retailers may be liable for violations occurring prior to this ruling.

If your business is currently collecting ZIP code information from customers and clients for any purpose not exempted by the Credit Card Act and this Supreme Court ruling, you may be subject to liability, and may need to seek legal advice about whether such practice constitutes a violation.



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