



Member Associations of

PRINTING INDUSTRIES OF CALIFORNIA

Printing Industries
Association of

San Diego

Phone: (858) 571-6555

Web: www.piasd.org

Printing Industries
Association of

Southern California

Phone: (323) 728-9500

Web: www.piasc.org

(formerly Printing Industries
of Northern California)

Visual Media Alliance

Phone: (415) 495-8242

Web: www.visualmediaalliance.org

Headline Summary

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- Pirated Software
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- DBA Statements
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Pirated Software

Organizations such as the Business Software Alliance (BSA), which work with major software developers, offer rewards to employees who "turn in" their employers for piracy. Being in possession of pirated software can lead to fines of up to \$150,000 per violation. Consider the following steps to prevent the introduction of pirated software onto your network:

- Make sure your IT department ensures compliance with software-licensing requirements.
- Maintain detailed records for all software that's purchased so you can provide the proper license information.
- Distribute written software policies to all employees, and set forth substantial consequences for downloading unauthorized software.

WatchDog

Guarding the Business of Print

November 2012

New Laws for 2013

Religious dress, grooming standards

AB 1964 clarifies that religious dress and grooming standards are subject to protection under the Fair Employment and Housing Act (FEHA). The new law also specifies that segregating an employee from customers, the public, or coworkers based on religious dress or grooming standards (e.g., head coverings, facial hair, or jewelry) is not a reasonable accommodation.

Inspection of personnel records

AB 2674 makes significant changes to the inspection and retention of personnel records, in the following areas: (1) allowed employees and former employees or authorized representatives to both inspect and receive a copy of the employees personnel records, and establishes a 30 calendar day period for compliance with an employee request to do so; (2) requires an employer to maintain personnel records for at least three years following an employee's termination of employment; allows for the recovery of a \$750 penalty if the employer fails to comply with these requirements

Written commission sales agreement

AB 1396 requires that whenever the contemplated method of paying an employee involves commissions, there must be a written contract that sets forth the method by which the commissions will be computed and paid. You must also provide the employee with a signed copy of the contract and obtain a signed receipt for the contract from him. If the contract expires but the employee continues to work under its terms, the terms will be presumed to remain in full force and effect until the contract is superseded by a new contract between the parties or either party terminates the employment relationship.

A sample sales compensation agreement can be found on piasc.org under the Human Resource tab.

Private Pension Plans

SB 1234 provides private sector workers an opportunity to enroll in the California Secure Choice Retirement Savings Program, a voluntary retirement plan with guaranteed benefits, to be administered by the California Secure Choice Retirement Savings Investment Board, which would also be established by the bill.

The bill, upon sufficient funds being made available through a nonprofit or private entity or federal funding, would require the board to conduct a market analysis to determine whether the necessary conditions for implementation can be met.

Once implemented, the bill would subject employers to significant cost, fiduciary responsibilities and liability with no commensurate benefit to employees by requiring employers without a retirement plan to enroll their workers—unless the employee opts out—in the new the program or pay a penalty of \$250 per employee.

Credit Card Fees

While credit card transactions help avoid delays or neglect of payment for the work performed, the downside is you have to pay the credit card company a merchant fee of one to three percent—a fee which you have to absorb or refuse to accept credit card payment to avoid paying the fee. To get around this dilemma, some members add a surcharge when the client wants to use a credit card to pay an invoice.

Recently, when a printer applied a surcharge to an invoice, his client responded that the California Civil Code Section 1748.1 prohibited the printer from doing so.

Section 1748.1 provides, in part, as follows: “No retailer in any sales, service, or lease transaction with a consumer may impose a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means.” [emphasis added]

Civil Code Section 1747.02(d) defines a “cardholder” as a “natural person to whom a credit card is issued for consumer purposes, or a natural person who has agreed with the card issuer to pay consumer credit obligations arising from the issuance of a credit card to another natural person.” [emphasis added]

A business is not a natural person. Thus in business to business transactions a surcharge can be added. However, in individual to individual or business to individual transaction a convenience fee cannot be charged.

For business purposes, you may want to add a statement on the quote sheet stating that, if the (business) client pays by credit card, you may impose a surcharge as permitted by law.

DBA Statements

A fictitious business name statement (dba or “doing business as”) must be registered with the county clerk of the county of the registrant’s principal place of business if the business is any of the following: (i) Sole proprietorship doing business under a name not containing the (cont.)

DBA Statements (cont.)

owner’s surname; (ii) Partnership; or (iii) Corporation doing business under a name other than its legal name.

A fictitious business name statement expires five (5) years from the date it is filed in the office of the county clerk. A new fictitious business name statement must be filed prior to that date if the owner intends to continue doing business under that name.

A registration renewal requires completion and filing of the application along with the applicable filing fee. A renewal does not require publication (certain publication requirements must be met for every new fictitious business name application). Each county has its own form and fees, but the fees are typically in the \$20.00 to \$50.00 range.

For a list of California County Recorders, go to <http://www.specializedweddings.com/recorder.html>

Indigo Presses Data Needed

We want to revise the estimated service life and percent good factor (the flip side of depreciation) for digital printing presses. Currently, the service life is 10 years—the period over which the percent good factor (depreciation) is spread. We want to revise it to five years, a more realistic view of the service life of these presses.

The shorter the estimated service life, the faster the press will depreciate—and that lowers a company’s county personal property tax assessment.

A couple of years ago, our statewide government affairs office (Printing Industries of California) worked with the State Board of Equalization (BOE) to revise the estimated service life and percent good factor for lithographic presses. We succeeded and were able to create a separate index for these presses, shorten the service life, accelerate depreciation, and reduce the personal property tax on lithographic presses.

We now want to do the same for digital presses. The BOE has agreed to work with us on this project and, if we get adequate data, create a separate percent good table.

Verifying A Seller's Permit

Seller’s permit verification is available to help you determine if a seller’s permit account number included on your customer’s resale certificate is currently valid. As a seller, you are responsible for ensuring the resale certificate is properly completed. (Refer to Regulation 1668, Resale Certificates.) You can verify the permit number and make sure it is valid before accepting the resale certificate with the Board of Equalization’s (BOE’s) online permit verification.

There are two easy methods to perform permit verification: Access the BOE website at www.boe.ca.gov and click on the eServices tab, then select Verify a Permit/ License, and enter the permit number for verification.

You can also download the BOE mobile app for your iPhone, Android mobile device, or any other mobile device that uses a browser other than Internet Explorer. You can find them here: www.boe.ca.gov/mobile/.