

DEPARTMENT OF FOOD AND AGRICULTURE

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DMS NOTICE
P-07-3 / D-07-4

May 18, 2007

Discard: Retain

TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: VISA Debit Cards and Petroleum Price Signage

DMS notice P-07-1, issued February 15, 2007, alerted officials to the actions of VISA Corporation in requiring service stations to change their petroleum price signage. After recent conversations with VISA representatives, and investigations by Division staff, we now have a better understanding of this issue.

The problem stems from the debit card issued by VISA, which, in certain circumstances, is seen as a credit card by card readers in service stations. VISA asserts that because the system sees debit cards as credit cards and, therefore, applies the same fees, price signs indicating a "credit" price violate their "Operating Procedures" and the term "credit" should be removed.

Our investigations however reveal bigger problems affecting the consumer and the retailer. First, these problems arise only for those petroleum retailers who are dual pricing, that is, offering a discount for cash in accordance with section 13532 of the Business and Professions Code. Typically, these retailers advertise the price of their product with one price for credit card transactions and another price, usually lower, for cash transactions. This practice has been used in California for many years and has not caused any confusion to the motoring public, provided the conditions of sale are correctly stated on the advertising price signs as required by Section 13532 of the Business and Professions Code. The introduction of check cards, ATM cards, debit cards, and other non-credit cards prompted the question as to how they were to be treated. The accepted definition of "cash" (Black's Law Dictionary) includes currency, checks and bank accounts. Because these cards do not offer credit but remove the cost of the transaction directly, albeit not necessarily immediately, from the customers bank account they are considered cash and, when used to purchase fuel under cash/credit pricing, must be given the cash price. It is legal however, subject to cardholder's permission, to charge a fee for use of these cards.

To understand the problems that exist, it helps to understand that electronic systems handle credit and non-credit cards differently. Historically, non-credit cards required the entry of a Personal Identification Number or PIN, while credit cards required only a signature. VISA's new DEBIT card does not provide the user access to a credit account; it derives payment for goods and services from the user's personal account as

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a debit transaction. These transactions now can either require entry of a PIN, or if not requiring a PIN, with or without signature. Any transaction that does not require the entry of a PIN has the potential of either defaulting to or being selected as a credit transaction, which then sets the dispenser to the credit price, even though payment will still be taken directly from the user's account. We believe, but have not substantiated, that this may also occur with other providers' non-credit cards.

It appears the problems VISA alludes to that cause retailers to violate their "Operating Procedures" are actually caused by the card reading systems themselves and the way they are configured. Card reading systems are configured with slight differences in the way they handle VISA's debit card. Some require a customer to select a debit transaction before the card is inserted to obtain the cash price. If this is not done, the system defaults to the credit price. Other systems allow the choice after the card is read, allowing a customer to select the credit card price for what is a cash transaction. Some systems are correctly configured to charge the cash price. It is our understanding from the manufacturers of these systems that all can be configured correctly, through software or switches, to eliminate the credit choice for a debit card. If the systems are configured this way, then customers of stations that dual price will no longer encounter problems with VISA's debit card.

If you need further information, please contact your device area specialist, Ken Lake at klake@cdfa.ca.gov or Gary Castro at gcastro@cdfa.ca.gov.

Sincerely,

Dennis R. Johannes
Director

cc: Ed Williams, Director, County Liaison Office