

## California Court Applies Song-Beverly Act “Special Purpose” Exception to Alcohol Sales

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The California Court of Appeal recently ruled that California retailers may legally request and record a customer’s date of birth in connection with the sale of alcohol. The court dismissed a consumer complaint asserting claims under the Song-Beverly Credit Card Act, which—subject to certain exceptions—prohibits retailers from requesting and recording customer personal identification information during credit card transactions.

The plaintiff, who had purchased an alcoholic beverage from the defendant with his credit card, alleged that the defendant violated the Act by recording his date of birth. But the Act expressly allows retailers to record personal identification information if “it is required for a special purpose incidental but related to the individual credit card transaction.” (Civil Code § 1747.08(c)(4)) The defendant successfully asserted a defense under this “special purpose” exception.

The court held that “proof of age is a special purpose incidental but related to the purchase of alcohol.” The court noted the “pervasive regulation of the sale of alcoholic beverages” and found that the defendant could properly use recorded birthdates as “a defense to a criminal or licensing action alleging sale to an underage person.” Because the defendant had a proper special purpose for recording the plaintiff’s date of birth, the court held it could not be liable under the Act.

**TIP: Although this ruling appears to give some flexibility in this narrow circumstance, retailers should continue to exercise caution if they request any personal identification information during a credit card transaction at the point of sale. Past experience has shown that a favorable ruling from the Court of Appeal is no guarantee that retailers are insulated from liability.**

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