

A-Engrossed
House Bill 2397

Ordered by the House February 11
Including House Amendments dated February 11

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Attorney General Ellen Rosenblum)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Removes provision under which certain actions of person in soliciting participation in contest or sweepstakes are unlawful practice only if solicitation occurs through use of United States mail.

A BILL FOR AN ACT

1
2 Relating to solicitations of participation in a chance to win a prize; amending ORS 646A.803.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 646A.803 is amended to read:

5 646A.803. (1) As used in this section:

6 (a) "Contest" means a procedure for awarding a prize in which the outcome depends at least in
7 part on the skill of the contestant. "Contest" includes any competition in which a person is required
8 to purchase anything, pay anything of value or make a donation in order to participate. "Contest"
9 also includes a competition that is advertised in a way that creates a reasonable impression that a
10 payment of anything of value, purchase of anything or making a donation is a condition of winning
11 a prize or competing for or obtaining information about a prize.

12 (b) "Sweepstakes" means a procedure for awarding a prize that is based on chance.
13 "Sweepstakes" includes any such procedure in which a person is required to purchase anything, pay
14 anything of value or make a donation as a condition of winning a prize or of receiving or obtaining
15 information about a prize. "Sweepstakes" also includes any such procedure that is advertised in a
16 way that creates a reasonable impression that a payment of anything of value, purchase of anything
17 or making a donation is a condition of winning a prize or receiving or obtaining information about
18 a prize.

19 (c) "Clearly and conspicuously" means the message is conveyed in a manner that is reasonably
20 apparent to the audience to whom it is directed. In order for a message to be considered clear and
21 conspicuous, it shall, at a minimum:

22 (A) Not contradict or substantially alter any terms it purports to clarify, explain or otherwise
23 relate to; and

24 (B) In the case of printed solicitations:

25 (i) Be in close proximity to the terms it purports to clarify, explain or otherwise relate to; and

26 (ii) Be of sufficient prominence in terms of placement, font or color contrast as compared with
27 the remainder of the solicitation so as to be reasonably apparent to the audience to whom it is di-
28 rected.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (2) A person engages in an unlawful practice when, in the course of the person's business, vo-
2 cation or occupation, the person [*uses the United States mail to solicit*] **solicits** participation in a
3 contest and the person does not clearly and conspicuously disclose in the solicitation:

4 (a) The maximum number of rounds or levels, if the contest has more than one round or level;

5 (b) The date the final winner will be determined;

6 (c) The maximum total cost the final winner will have paid to the sponsor to participate in the
7 contest;

8 (d) Whether the final winner must purchase or pay anything of value to a person other than the
9 sponsor if purchasing or paying is a condition of eligibility;

10 (e) If the contest involves multiple rounds of increasing difficulty, an example illustrative of the
11 last determinative round or a statement that subsequent rounds will be more difficult;

12 (f) If the contest is judged by someone other than the sponsor, the identity of or description of
13 the qualifications of the judges;

14 (g) The method used in judging; and

15 (h) The name and address of the sponsor or the sponsor's agent.

16 (3) A person engages in an unlawful practice when, in the course of the person's business, vo-
17 cation or occupation, the person [*uses the United States mail to solicit*] **solicits** participation in a
18 sweepstakes and does not clearly and conspicuously disclose in the solicitation:

19 (a) The odds of winning in Arabic numerals, except that if the odds of winning depend on the
20 number of entries received, a statement to that effect will be deemed sufficient;

21 (b) The name and address of the sponsor or the sponsor's agent, consistently stated wherever
22 it is used; and

23 (c) The procedure for entry without purchase.

24 (4) A person engages in an unlawful practice when, in the course of the person's business, vo-
25 cation or occupation, the person solicits participation in a contest or sweepstakes **by representing**
26 **that a person:**

27 (a) [*By using the United States mail to represent that a person*] Has been selected to receive or
28 has won a particular prize, when that is not the case; or

29 (b) [*By using the United States mail to represent that a person*] Is a winner, is a finalist, is in first
30 place or is otherwise in a limited group of persons with an enhanced likelihood of winning or re-
31 ceiving a prize, when more than 25 percent of the persons receiving the solicitation have the same
32 chance of winning.

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