

**Enrolled**  
**House Bill 2397**

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

CHAPTER .....

AN ACT

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

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

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

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

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

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

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

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

(B) In the case of printed solicitations:

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

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

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

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

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

- (c) The maximum total cost the final winner will have paid to the sponsor to participate in the contest;
  - (d) Whether the final winner must purchase or pay anything of value to a person other than the sponsor if purchasing or paying is a condition of eligibility;
  - (e) If the contest involves multiple rounds of increasing difficulty, an example illustrative of the last determinative round or a statement that subsequent rounds will be more difficult;
  - (f) If the contest is judged by someone other than the sponsor, the identity of or description of the qualifications of the judges;
  - (g) The method used in judging; and
  - (h) The name and address of the sponsor or the sponsor's agent.
- (3) A person engages in an unlawful practice when, in the course of the person's business, vocation or occupation, the person [*uses the United States mail to solicit*] **solicits** participation in a sweepstakes and does not clearly and conspicuously disclose in the solicitation:
- (a) The odds of winning in Arabic numerals, except that if the odds of winning depend on the number of entries received, a statement to that effect will be deemed sufficient;
  - (b) The name and address of the sponsor or the sponsor's agent, consistently stated wherever it is used; and
  - (c) The procedure for entry without purchase.
- (4) A person engages in an unlawful practice when, in the course of the person's business, vocation or occupation, the person solicits participation in a contest or sweepstakes **by representing that a person**:
- (a) [*By using the United States mail to represent that a person*] Has been selected to receive or has won a particular prize, when that is not the case; or
  - (b) [*By using the United States mail to represent that a person*] Is a winner, is a finalist, is in first place or is otherwise in a limited group of persons with an enhanced likelihood of winning or receiving a prize, when more than 25 percent of the persons receiving the solicitation have the same chance of winning.

Passed by House February 18, 2019

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 Timothy G. Sekerak, Chief Clerk of House

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 Tina Kotek, Speaker of House

Passed by Senate April 25, 2019

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 Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

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 Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

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 Bev Clarno, Secretary of State