
HOUSE BILL 1821

State of Washington 58th Legislature 2003 Regular Session

By Representatives Sullivan, Ahern, O'Brien, Nixon, Hunt and Wood

Read first time 02/11/2003. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the regulation of sweepstakes; amending RCW
2 19.170.010, 19.170.020, and 19.170.050; adding new sections to chapter
3 19.170 RCW; creating a new section; and repealing RCW 19.170.030 and
4 19.170.040.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 19.170.010 and 1991 c 227 s 1 are each amended to read
7 as follows:

8 (1) The legislature finds that deceptive promotional advertising of
9 prizes is a matter vitally affecting the public interest for the
10 purpose of applying the consumer protection act, chapter 19.86 RCW.

11 (2) Deceptive promotional advertising of prizes is not reasonable
12 in relation to the development and preservation of business. A
13 violation of this chapter is an unfair or deceptive act in trade or
14 commerce for the purpose of applying the consumer protection act,
15 chapter 19.86 RCW, and constitutes an act of deceptive promotional
16 advertising.

17 (3) This chapter applies to a promotion offer, contest, skill
18 contest, or sweepstakes:

1 (a) ~~((Made))~~ Offered through any means to a person in Washington
2 for any commercial purpose;

3 (b) Used to induce or invite a person to come to the state of
4 Washington to claim a prize, attend a sales presentation, meet a
5 ~~((promoter,))~~ sponsor, salesperson, or their agent, or conduct any
6 business in this state; or

7 (c) Used to induce or invite a person to contact by any means a
8 ~~((promoter,))~~ sponsor, salesperson, or their agent in this state.

9 **Sec. 2.** RCW 19.170.020 and 1991 c 227 s 2 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) "Contest" means any game, competition, giveaway, promotion,
14 promotional offer, drawing, sweepstakes, or plan that holds out or
15 offers to prospective participants the opportunity to receive or
16 compete for gifts, prizes, or gratuities, but not any activity of
17 licensees regulated under chapter 9.46 RCW.

18 (2) "No purchase necessary message" means the following statement,
19 set apart and in at least ten-point bold-faced type: "No purchase or
20 payment of any kind is necessary to enter or win this (sweepstakes or
21 contest)."

22 (3) "Official rules" means the formal printed statement of the
23 rules for the sweepstakes or contest, which statement shall be printed
24 in contrasting type face and at least ten-point type.

25 (4) "Person" means an individual, corporation, the state or its
26 subdivisions or agencies, business trust, estate, trust, partnership,
27 association, cooperative, or any other legal entity.

28 ~~((+2))~~ (5) "Prize" means ~~((a gift, award, travel coupon or~~
29 ~~certificate, free item, or any other item offered in a promotion that~~
30 ~~is different and distinct from the goods, service, or property promoted~~
31 ~~by a sponsor. "Prize" does not include an item offered in a promotion~~
32 ~~where all of the following elements are present:~~

33 ~~(a) No element of chance is involved in obtaining the item offered~~
34 ~~in the promotion;~~

35 ~~(b) The recipient has the right to review the merchandise offered~~
36 ~~for sale without obligation for at least seven days, and has a right to~~

1 obtain a full refund in thirty days for the return of undamaged
2 merchandise;

3 (c) ~~The recipient may keep the item offered in the promotion~~
4 ~~without obligation; and~~

5 (d) ~~The recipient is not required to attend any sales presentation~~
6 ~~or spend any sum in order to receive the item offered in the promotion.~~

7 (3) "Promoter" means a person conducting a promotion.

8 (4) "Promotion" means an advertising program, sweepstakes, contest,
9 direct giveaway, or solicitation directed to specific named
10 individuals, that includes the award of or chance to be awarded a
11 prize.

12 (5)) cash or an item or service of monetary value that is offered
13 or awarded to a person in a real or purported sweepstakes or contest.

14 (6) "Represent" and "representation" includes express statements
15 and the implications and inferences that would be drawn from those
16 statements, taking into account the context in which the representation
17 is made, including, but not limited to, emphasis, font, size, color,
18 location, and presentation of the representation and any qualifying
19 language. If the representation is made on or visible through a
20 mailing envelope, the context in which the representation is to be
21 considered, including any qualifying language, shall be limited to that
22 which is visible without opening the mailing envelope.

23 (7) "Offer" means a written notice delivered by hand, mail,
24 electronic mail, or other ((print)) medium offering goods, services, or
25 property made as part of a ((promotion)) contest to a person based on
26 a representation that the person may be awarded, has been awarded, or
27 will be awarded, a prize.

28 ((+6)) (8) "Specially selected" means a representation that a
29 person is a winner, a finalist, in first place or tied for first place,
30 or otherwise among a limited group of persons with an enhanced
31 likelihood of receiving a prize.

32 (9) "Sponsor" means a person who conducts a contest or a person on
33 whose behalf a ((promotion)) contest is conducted to promote or
34 advertise goods, services, or property of that person, or a person who
35 offers, by means of an offer, a prize to another person in this state
36 in conjunction with any real or purported sweepstakes or contest that
37 requires or allows, or creates the impression of requiring or allowing,
38 the person to purchase any goods or services or pay any money as a

1 condition of receiving, or in conjunction with allowing the person to
2 receive, use, compete for, or obtain a prize or information about a
3 prize.

4 (10) "Sweepstakes" means any competition, giveaway, drawing, plan,
5 or other selection process or other enterprise or promotion in which
6 anything of value is awarded to participants by chance or random
7 selection that is not otherwise unlawful under other provisions of law,
8 but not any activity of licensees regulated under chapter 9.46 RCW.

9 ~~((7))~~ (11) "Simulated check" means a document that is not
10 currency or a check, draft, note, bond, or other negotiable instrument
11 but has the visual characteristics thereof. "Simulated check" does not
12 include a nonnegotiable check, draft, note, or other instrument that is
13 used for soliciting orders for the purchase of checks, drafts, notes,
14 bonds, or other instruments and that is clearly marked as a sample,
15 specimen, or nonnegotiable.

16 ~~((8))~~ (12) "Continuing obligation check" means a document that is
17 a check, draft, note, bond, or other negotiable instrument that, when
18 cashed, deposited, or otherwise used, imposes on the payee an
19 obligation to enter into a loan transaction. This definition does not
20 include checks, drafts, or other negotiable instruments that are used
21 by consumers to take advances on revolving loans, credit cards, or
22 revolving credit accounts.

23 ~~((9))~~ (13) "Verifiable retail value" means:

24 (a) A bona fide price at which a ~~((promoter or))~~ sponsor can
25 demonstrate that a substantial number of prizes have been sold at
26 retail in the local market by a person other than the ~~((promoter or))~~
27 sponsor; or

28 (b) If the prize is not available for retail sale in the local
29 market, the retail fair market value in the local market of an item
30 substantially similar in each significant aspect, including size,
31 grade, quality, quantity, ingredients, and utility; or

32 (c) If the value of the prize cannot be established under (a) or
33 (b) of this subsection, then the prize may be valued at no more than
34 three times its cost to the ~~((promoter or))~~ sponsor.

35 ~~((10))~~ (14) "Financial institution" means any bank, trust
36 company, savings bank, savings and loan association, credit union,
37 industrial loan company, or consumer finance lender subject to

1 regulation by an official agency of this state or the United States,
2 and any subsidiary or affiliate thereof.

3 (15) "Skill contest" means a puzzle, game competition, or other
4 skill contest in which:

5 (a) A prize is awarded or offered;

6 (b) The outcome depends predominantly on the skill of the
7 contestant; and

8 (c) A purchase, payment, or donation is required, or implied to be
9 required, to enter the skill contest.

10 (16) "Covered communication" includes any direct mail, electronic
11 mail, or other communication made by a medium that offers an
12 opportunity to consumers in this state to enter a skill contest, refers
13 to an opportunity to enter a skill contest, or is used during the
14 course of a skill contest.

15 NEW SECTION. Sec. 3. A new section is added to chapter 19.170 RCW
16 to read as follows:

17 PROHIBITED PRACTICES. A sponsor of a contest may not:

18 (1) Make any false or misleading statements or representations in
19 or as a part of any contest;

20 (2) Require a person to pay the sponsor or any other person money
21 or any other consideration as a condition of awarding the person a
22 prize, or as a condition of allowing the person to receive, use,
23 compete for, or obtain a prize or information about a prize. These
24 payments include but are not limited to shipping fees, deposits,
25 handling fees, payment for one item in order to receive another at no
26 charge, or the purchase of another item or the expenditure of funds in
27 order to make meaningful use of the item awarded in the promotion. The
28 payment of any applicable state or federal taxes by a recipient
29 directly to a government entity is not a violation of this section;

30 (3) Represent that a person has won or unconditionally will be the
31 winner of a prize or use language that may lead a person to believe he
32 or she has won a prize, unless the person will be given the prize
33 without obligation;

34 (4) Represent that an item is a prize or that a person has been
35 selected by chance if all or substantially all of the recipients of an
36 offer in a contest receive items of the same or similar value;

1 (5) Represent that a recipient was specially selected unless it is
2 true and not misleading;

3 (6) Subject sweepstakes or contest entries not accompanied by an
4 order for products or services to any disability or disadvantage in the
5 winner selection process to which an entry accompanied by an order for
6 products or services would not be subject;

7 (7) Represent that an entry in a sweepstakes or contest accompanied
8 by an order for products or services will be eligible to receive
9 additional prizes or be more likely to win than an entry not
10 accompanied by an order for products or services, or that an entry not
11 accompanied by an order for products or services will have a reduced
12 chance of winning a prize in the sweepstakes or contest;

13 (8) Represent that a person will have an increased chance of
14 receiving a prize by making multiple or duplicate purchases, payments,
15 or donations, or by entering a sweepstakes or contest more than one
16 time;

17 (9) Represent that a person is being notified a second, subsequent,
18 or final time of the opportunity to receive or compete for a prize,
19 unless the representation is true;

20 (10) Represent that an offer is urgent or otherwise convey an
21 impression of urgency by use of description, narrative copy, phrasing
22 on a mailing envelope, or similar method, unless there is a limited
23 time period in which the recipient must take some action to claim or be
24 eligible to receive a prize, and the date by which such action is
25 required appears immediately adjacent to each representation of urgency
26 in the same type size and boldness as each representation of urgency;

27 (11) Deliver, or cause to be delivered, an offer that:

28 (a) Simulates or falsely represents that it is a document
29 authorized, issued, or approved by any court, official, or agency of
30 the United States or any state or by any lawyer, law firm, or insurance
31 or brokerage company, certified public accountant, or notary public; or

32 (b) Creates a false impression as to its source, authorization, or
33 approval;

34 (12) Represent that an offer is being delivered by any method other
35 than bulk mail unless that is the case, or otherwise misrepresent the
36 manner in which the offer is delivered;

37 (13) Misrepresent in any manner the likelihood or odds of winning

1 any prize or misrepresent in any manner the rules, terms, or conditions
2 of participation in a sweepstakes or contest;

3 (14) Require the person to purchase insurance as a condition of
4 claiming a prize;

5 (15) Include a prize in an offer when the sponsor knows or has
6 reason to know that the prize will not be available in a sufficient
7 quantity based upon the reasonably anticipated response to the offer;

8 (16) Represent that a person has won a prize if there are any
9 conditions that must be met or events that must occur before the person
10 is a winner; or

11 (17) Represent that a person may be or may become a winner of a
12 prize, characterize the person as a possible winner of a prize, or
13 represent that the person will, upon the satisfaction of some condition
14 or the occurrence of some event or other contingency, become the winner
15 of a prize, unless the material conditions necessary to make the
16 representation truthful are disclosed. Such disclosures must be
17 presented in the same type face, size, color, style, and font and
18 presented in such a manner that they are an integral part of the
19 representation and not separated from the remainder of the
20 representation by intervening words, graphics, colors, or excessive
21 blank space.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.170 RCW
23 to read as follows:

24 MANDATORY DISCLOSURES. A sponsor must disclose in an offer:

25 (1) That the recipient has not won a prize, unless the person will
26 receive the prize without meeting any conditions;

27 (2) The no purchase necessary message;

28 (3) The verifiable retail value of each prize:

29 (a) Stated in United States dollars, indicated in arabic numerals,
30 and preceded by a dollar sign; and

31 (b) Printed immediately adjacent to the first identification of the
32 prize to which it refers and in the same type size and boldness as the
33 reference to the prize;

34 (4) The odds of receiving each prize:

35 (a) This statement must include, for each prize, the total number
36 of prizes to be given away and the estimated odds of winning each prize

1 based upon the following formula: ". . . (number of prizes) out of
2 . . . (number of) offers distributed"; and

3 (b) This information shall be presented immediately adjacent to the
4 first identification of the prize to which it refers and in the same
5 type size and boldness as the reference to the prize;

6 (5) The name or names of each sponsor, the street address of each
7 sponsor's principal place of business, and the street address at which
8 each sponsor may be contacted;

9 (6) Any restrictions on any prize, with a complete description of
10 the restriction. If travel is awarded as any part of any prize, any
11 conditions or restrictions on travel dates, travel times, classes of
12 travel, airlines, accommodations, travel agents, or tour operators;

13 (7) The official rules for the sweepstakes or contest, which must
14 include:

15 (a) A clear and conspicuous disclosure of the odds for winning each
16 prize;

17 (b) The number of rounds or levels that may be necessary to
18 complete the contest and determine winners;

19 (c) The date or dates on or before which the contest will terminate
20 and upon which all prizes will be awarded;

21 (d) The method of determining prize winners in the case of a tie;
22 and

23 (e) All rules, regulations, terms, and conditions of the contest;

24 (8) The deadline for submission of an entry to be eligible to win
25 each prize; and

26 (9) If a ticket, the offer itself, a token, number, lot, or other
27 device used to determine winners in a particular promotion must be
28 presented to a sponsor, in order to claim or redeem a prize. This
29 condition must be disclosed clearly on the first page of the offer.

30 NEW SECTION. **Sec. 5.** A new section is added to chapter 19.170 RCW
31 to read as follows:

32 SKILL CONTESTS. (1) The sponsor of a skill contest shall not:

33 (a) Represent, in a covered communication, that the recipient has
34 won, is the winner of, or will be the winner of, a skill contest
35 unless:

36 (i) The recipient has won or will be determined to be the winner;

37 (ii) The representation is not false, deceptive, or misleading;

1 (iii) The prize and its value are clearly and conspicuously
2 disclosed in the representation itself; and

3 (iv) Any action that the recipient must take to receive or obtain
4 the prize is set forth in readily understandable terms and the action
5 does not affect the recipient's entitlement to receive or obtain the
6 prize;

7 (b) Represent, in a covered communication, that the recipient may
8 already be or may become a winner, characterize the recipient as a
9 possible winner, or represent that the recipient will, upon the
10 satisfaction of some condition or the occurrence of some event or other
11 contingency, become the winner of a skill contest, unless the sponsor
12 or promoter of a skill contest clearly and conspicuously discloses:

13 (i) That a winner of the contest has not yet been determined; and

14 (ii) All conditions necessary to win the contest, so as to render
15 the representation fair, true, and not misleading;

16 (c) Request, in a covered communication, information or action from
17 the recipient that would be of use or is represented as being of use in
18 the event the recipient has won a prize, unless the recipient has won
19 a prize and such information or action is necessary to deliver the
20 prize;

21 (d) Use, in a covered communication, a personalized simulated check
22 or other payment device, such as a depiction of a deposit slip or
23 electronic funds transfer receipt, to represent any prize;

24 (e) Misrepresent the likelihood or chance of winning a skill
25 contest or prize;

26 (f) Represent, in a covered communication, that skill contest prize
27 awards are or may be distributed to anyone other than to a winner of a
28 skill contest;

29 (g) Misrepresent, in a covered communication, that its employees or
30 others acting on its behalf, real or fictitious, have personal feelings
31 concerning a personal relationship with, or will take or refrain from
32 taking any action relating to, the recipient of the communication;

33 (h) Misrepresent that a recipient has an advantage over other
34 contestants;

35 (i) Misrepresent, on the outside of the envelope, the method of
36 delivery of any covered communication, including, but not limited to,
37 misrepresenting that the delivery is being made by courier, overnight

1 mail, special delivery, express mail, hand delivery, registered or
2 certified mail, or by any other form of expedited delivery, or
3 otherwise misrepresenting the urgency with which it is sent;

4 (j) Use stamps, labels, symbols, bar codes, or other elements that
5 resemble indicia or forms used by an entity such as the United States
6 postal service, a government agency, a private courier, delivery
7 service, or a financial institution, unless the element is genuine and
8 required by such other entity;

9 (k) Make reference to any law or regulation, pertaining to the use
10 of the mail or to the operation of a skill contest, that is visible on
11 the unopened envelope in which a covered communication is contained,
12 unless such statement and such placement is required by law;

13 (l) Misrepresent the number of persons eligible for a skill contest
14 or a prize, any limitations on eligibility for a skill contest or a
15 prize, or the method by which the recipient was selected to receive an
16 offer to enter a skill contest or to compete for a prize;

17 (m) Misrepresent that the recipient:

18 (i) Has a better chance of winning a skill contest than other
19 participants who are at the same stage of the contest;

20 (ii) Has advanced beyond participants who are or will be at the
21 same stage in the contest; or

22 (iii) Has a status in the skill contest that is superior to other
23 participants who are or will be at the same stage;

24 (n) Represent that each participant has an equal aptitude for
25 winning a skill contest;

26 (o) Misrepresent that:

27 (i) A recipient has advanced in a skill contest;

28 (ii) That the field of contestants in a skill contest has been
29 winnowed; or

30 (iii) That a recipient's status in a skill contest has otherwise
31 improved in a substantive way;

32 (p) Represent that a recipient has advanced in a skill contest,
33 that the field of contestants in a skill contest has been winnowed, or
34 that a recipient's status in a skill contest has otherwise improved in
35 a substantive way, such as by representing that a recipient is "tied"
36 for any position or status in a skill contest, is now eligible for a
37 round subsequent to the entry round of a skill contest, or is

1 participating in or eligible for a tie-breaker round, unless the
2 representation also clearly and conspicuously discloses:

3 (i) The fact that there are many others who hold the same status as
4 the recipient;

5 (ii) The manner in which the recipient's status has improved; and
6 (iii) All facts necessary to make the representation truthful and
7 not misleading;

8 (q) Represent that a recipient's likelihood of winning a skill
9 contest is based, in whole or in part, on chance or luck;

10 (r) Represent that a recipient's likelihood of winning a skill
11 contest is based on anything other than the individual effort and
12 skills required to compete successfully in the skill contest;

13 (s) Represent, in a covered communication, that the recipient of
14 the communication has characteristics or skills that indicate an
15 enhanced chance of winning a skill contest, such as characteristics or
16 skills that are similar to the characteristics or skills of past
17 winners in a skill contest, unless the recipients have objectively
18 demonstrated characteristics or skills needed to win the contest;

19 (t) Misrepresent the degree of skill, knowledge, or ability
20 required to compete effectively for winning a prize;

21 (u) Use any writing that simulates or resembles a legal document
22 such as an affidavit, certification, release, or legal notice;

23 (v) Represent that a recipient is being notified a second or
24 subsequent time of the opportunity to compete for a prize, unless the
25 representation is true;

26 (w) Represent that a recipient is being notified a final time of an
27 opportunity to compete for a prize, unless a previous notification of
28 that opportunity was sent to the recipient and no further opportunity
29 to compete in that contest will be offered;

30 (x) Misrepresent a prize nor represent separate or multiple contest
31 or game prizes as a single prize;

32 (y) Solicit any charge, fee, or bonus fee in connection with a
33 skill contest, or any portion thereof, that is not clearly and
34 conspicuously disclosed in the official rules;

35 (z) Represent that an entrant's chance of receiving a prize or the
36 amount of the prize will increase by submitting identical entries in
37 the same contest, except this will not preclude the sponsor of a skill

1 contest from returning those entry and bonus fees directly related to
2 the person's submission of the winning entry;

3 (aa) Represent that any deadline applies to the return of an entry
4 in any level of a skill contest other than the date by which all
5 entries must be received. Nothing in this subsection prevents the
6 sponsor of a skill contest from making general requests for prompt
7 responses that do not specify any deadlines;

8 (bb) Offer in a skill contest any puzzle or other game that does
9 not require bona fide skill to complete correctly. If the sponsor of
10 a skill contest offers skill contests consisting of multiple levels or
11 rounds, the sponsor of a skill contest shall ensure that the level of
12 difficulty in each level or round increases in a systematic and
13 consistent manner. If fifteen percent or more of the contestants are
14 eliminated at the initial or entry level, the requisite skill will be
15 presumed, provided that the fifteen-percent elimination rate can be
16 demonstrated by empirical data. In subsequent rounds, the sponsor of
17 a skill contest shall further be entitled to the presumption of bona
18 fide skill if they can demonstrate that at least twice the percentage
19 of contestants fail to advance from that round as failed to reach the
20 round in question;

21 (cc) Knowingly sell, rent, exchange, transfer, or otherwise furnish
22 to, or purchase from other persons, customer age or telephone contact
23 information or financial data disclosed in connection with a skill
24 contest. Also, the sponsor of a skill contest shall not provide list
25 renters the ability to select names based on customer age, telephone
26 contact information, or financial data. For purposes of this
27 subsection, financial data includes credit card numbers, bank account
28 numbers, other payment device numbers, and a customer's purchase
29 history, except that the sponsor or promoter of a skill contest may
30 disclose dollars spent per customer within ninety days prior to the
31 date such information is furnished or purchased;

32 (dd) Provide, over the telephone, answers or assistance in
33 completing the puzzles offered in a skill contest, beyond explaining
34 the skill contest rules;

35 (ee) Make customer lists available to others unless such list
36 rental agreements between the sponsor or promoter of a skill contest
37 and list renters prohibit telematching the names or addresses on the

1 customer lists and using such lists for telephonic solicitation of any
2 kind;

3 (ff) Make telephone numbers of customers available to others, offer
4 lists of customers' names or addresses in segments based on the
5 customers' ages, or offer any names or addresses of customers;

6 (gg) Mail or otherwise make a covered communication to a person who
7 has made payments of one thousand five hundred dollars or more in
8 response to covered communications within a twelve-month period
9 beginning with the first day of the first month of the calculation and
10 ending with the date on which the payment is made. The sponsor of a
11 skill contest shall not mail or otherwise make a covered communication
12 to any person who has made, in any time period, payments of three
13 thousand five hundred dollars or more in response to a covered
14 communication; and

15 (hh) Represent, in a covered communication or by any other means,
16 that its representations, solicitations, practices, goods, or services
17 have the sponsorship or approval of any court or the attorney general
18 of any state or any other judicial or governmental authority unless
19 expressly authorized or required by such authority.

20 (2) The sponsor of a skill contest shall:

21 (a) Maintain a do not contact list. The do not contact list is an
22 accurate and up-to-date list of all persons who request to be removed
23 from the sponsor of a skill contest's mailing list. The sponsor of a
24 skill contest shall provide, in covered communications, a clear and
25 conspicuous notice of the procedure by which a recipient's name may be
26 removed from the sponsor of a skill contest's active mailing list. In
27 maintaining the do not contact list, the sponsor of a skill contest:

28 (i) Shall accept do not contact requests made by mail to an address
29 identified in the offer. The sponsor of a skill contest shall accept
30 do not contact requests made directly by the recipient or made on
31 behalf of the recipient by a guardian, conservator, primary caregiver,
32 family member, legal representative, or by the state attorney general;

33 (ii) May require that the requestor verify the do not contact
34 request in writing. The sponsor of a skill contest shall not include
35 in any other communications inducements to request removal from the do
36 not contact list;

37 (iii) Shall add to the do not contact list the name and address
38 provided in any such request together with all variations of the name

1 and address that the sponsor has, with reasonable diligence, identified
2 or identifies in the future as being the same customer. The sponsor of
3 a skill contest shall maintain a record of all do not contact requests
4 in such form or forms as shall permit the permanent suppression of such
5 names and addresses from future covered communications;

6 (iv) Shall not accept any entries from any persons having the same
7 name and address that appear on its do not contact list. The sponsor
8 of a skill contest shall exclude all names and addresses on the do not
9 contact list from all lists of names and addresses used to select
10 recipients for covered communications, other than billing and
11 collections communications for open orders and customer service
12 communications that contain no promotional material, and from all lists
13 of names and addresses made available for use by others for marketing
14 purposes. The sponsor of a skill contest shall also exercise
15 reasonable diligence to ensure that the names and addresses on its do
16 not contact list are suppressed from each and every new list obtained,
17 rented, or used; and

18 (v) Shall ensure that the do not contact request is given effect by
19 forty-five days after receipt of the request and shall keep the request
20 in effect until the sponsor receives notice to the contrary from the
21 recipient. However, in any case in which the original request was made
22 by a legal representative of the person or the state attorney general,
23 the request shall be changed only upon notice from the same or another
24 legal representative or the attorney general, respectively;

25 (b) In the case of a tie, have the option to split prizes among the
26 finalists, provided that no winning entrant shall be awarded a greater
27 share of the prize than any other winning entrant, regardless of
28 whether an entrant submitted more than one winning entry. The sponsor
29 of a skill contest may engage in additional rounds in order to
30 establish one final winner provided that they do not charge fees beyond
31 those disclosed in the initial offer and such additional rounds have
32 been clearly and conspicuously disclosed in the rules of the initial
33 and all subsequent skill contest offers; and

34 (c) Include in each covered communication that requires, appears to
35 require, solicits, or appears to solicit, the payment of any money
36 related to a skill contest or game or contains an opportunity to enter
37 a skill contest, game, or round, including, but not limited to, bonus

1 opportunities, a separate insert, devoid of any marketing copy, titled
2 "Official Contest Rules, Contest Facts, and Refund Policy." The stand-
3 alone insert shall contain the following three sections:

4 (i) The contest rules, appearing in at least ten-point type and
5 containing the following material facts set forth in a clear and
6 conspicuous manner and in separately enumerated paragraphs that are
7 divided by the equivalent of a line of clear space. The contest rules
8 shall include:

9 (A) The name of the skill contest and game, if applicable. Nothing
10 in this subsection prohibits a single set of contest rules from
11 covering multiple games as long as it clearly and conspicuously
12 discloses that fact;

13 (B) The maximum number of rounds or levels, if the skill contest
14 has more than one round or level and a statement to the effect that one
15 or more additional rounds may be necessary to produce the final winner
16 or winners, if such is the case;

17 (C) The date the final winner or winners will be determined;

18 (D) A complete and accurate description of all fees charged for
19 participation in the skill contest, and a complete and accurate
20 description of all fees requested for optional bonus prize amounts.
21 Such description shall include both the amount and the purpose of each
22 fee required or requested during the skill contest. The paragraph
23 containing this disclosure shall begin with the title "Required and
24 Optional Fees" and shall appear in a font that is more readily
25 noticeable than the body of the paragraph;

26 (E) If the skill contest involves multiple rounds of increasing
27 difficulty, a representative example illustrative of the skills
28 required to compete in the contest offered, including an actual
29 depiction of a final tie-breaking round and a bona fide winning entry
30 from a similar or identical skill contest with a description of the
31 instructions for accurately completing that puzzle. The word "SAMPLE"
32 may be superimposed over the examples but not in a manner that would
33 disguise or mislead as to the degree of difficulty posed by the final
34 tie-breaker round or skill necessary to complete a winning entry;

35 (F) The estimated number and percentage of contestants expected to
36 successfully complete each round of the skill contest relative to the
37 original number of contestants anticipated and the estimated number of
38 contestants expected to advance to the next round followed by the

1 percentage the number of successful entrants represents of the total
2 entrants into each round of the skill contest. This disclosure shall
3 provide the required information in a uniform and consistent manner.
4 The paragraph containing this disclosure shall begin with the title
5 "Estimated Number of Contestants" and shall appear in a font that is
6 more readily noticeable than the body of the paragraph;

7 (G) The identity of and a description of the qualifications of the
8 judges and their relationship to the sponsor of a skill contest;

9 (H) The method used in judging;

10 (I) The name and address of the sponsor offering the skill contest,
11 or the sponsor's agent, if applicable;

12 (J) A complete and accurate description of prizes;

13 (K) A description of all material restrictions;

14 (L) A description of the sponsor's refund policy;

15 (M) A complete, accurate, and nonmisleading description of the
16 effects of multiple entries, at the initial and any other tie-breaker
17 rounds, by participants;

18 (N) The historical or anticipated percentage of entry fees that are
19 paid out in prizes or awards;

20 (O) The manner in which any prize will be paid and a disclosure if
21 multiple winning entries by a single contestant will not increase the
22 amount an individual contestant may win; and

23 (P) The telephone number and address where the sponsor's customer
24 service department can be contacted, and the office hours for the
25 customer service department.

26 (ii)(A) All covered communications shall contain a stand-alone
27 insert in twelve-point bold-face type that discloses the contest facts.
28 The insert must contain the following statements that must be placed in
29 a box entitled "Contest Facts" and such title must be in at least
30 fourteen-point bold-face type:

31 (I) This is a contest of skill. This contest includes several
32 rounds of puzzles that require mathematical, verbal, or other skills.
33 Each round will be substantially more challenging and difficult to
34 solve;

35 (II) The winner will not be determined until the end of the
36 contest. To win this contest you must receive the highest score in the
37 final round of puzzles. In the event of a tie, all winners will share
38 the prize equally;

1 (III) This contest will end on (date). See contest rules for the
2 entry deadline; and

3 (IV) This is not a sweepstakes. There is no "chance" or "luck"
4 involved in this contest;

5 (B) The contest facts box shall also include, below the statements
6 in (c)(ii)(A) of this subsection, a disclosure of the individual and
7 distinct name of the skill contest offered, the identity of the prize
8 or prizes offered in each game, the number of rounds involved in the
9 contest, the total amount of all required fees to participate and win
10 the contest, and the ending date of the contest by which time the
11 winner will be determined. Such information shall be presented in a
12 grid format, in at least ten-point type; and

13 (C) The contest facts box shall contain no matter other than matter
14 required by (c)(ii) of this subsection and shall not be overlaid with
15 any graphic design, text, or color from outside the box. The
16 background of the box shall be in a color or shade that contrasts with
17 the text in the box in such a manner that the text is clearly distinct
18 from the background and easily read.

19 (iii) The refund policy, appearing in at least ten-point type shall
20 be prominently presented as a separate disclosure from the contest
21 rules and the contest facts. Each sponsor's refund policy shall be as
22 follows:

23 (A) Regardless of the reason for the request, the sponsor of a
24 skill contest shall provide any customer a full refund for any open
25 contest before that customer is notified that a losing entry has been
26 submitted; and

27 (B) If a refund request is accompanied by any information
28 indicating that a consumer has not fully understood, has acted
29 irresponsibly or inappropriately, or is confused or otherwise lacks the
30 ability to knowingly and voluntarily enter a skill contest, the sponsor
31 or promoter of a skill contest shall deliver a full refund for all
32 contests, even if the contests are closed, and even if the consumer is
33 notified of an incorrect entry. When a customer is given a refund
34 pursuant to this section he or she shall automatically be put on a do
35 not contact list and shall not be generated any new covered
36 communications. The name and address of such customer shall not be
37 rented or sold to others.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 19.170 RCW
2 to read as follows:

3 RAIN CHECKS. (1) If a prize is not available for immediate
4 delivery when a recipient attempts to collect or redeem a prize, the
5 sponsor must award a prize of equal or greater value, a rain check, or
6 the cash value for the verifiable retail value of a prize in lieu of a
7 prize.

8 (2) If a rain check issued in lieu of a prize cannot be honored
9 within thirty days, the sponsor must award the cash value for the
10 verifiable retail value of a prize.

11 (3) A rain check must include the following language in a
12 conspicuous statement of recipients' rights printed in type at least as
13 large as the typeface used in the standard text of the offer:

14 "If you receive a rain check in lieu of the prize, you are
15 entitled by law to receive the prize, an item of equal or
16 greater value, or the cash equivalent of the offered prize
17 within thirty days of the date on which you claimed the prize."

18 NEW SECTION. **Sec. 7.** A new section is added to chapter 19.170 RCW
19 to read as follows:

20 DEMONSTRATIONS, SEMINARS, OR SALES PROMOTIONS. (1) If a person is
21 required or invited to view, hear, or attend a sales presentation in
22 order to claim a prize that has been awarded, may have been awarded, or
23 will be awarded, the requirement or invitation must be conspicuously
24 disclosed to the person in the offer in bold-face type at least as
25 large as the typeface used in the standard text of the offer.

26 (2) Before a demonstration, seminar, or sales presentation begins,
27 the sponsor must inform the person of the prize, if any, the person
28 will receive.

29 (3) A prize or a voucher, certificate, or other evidence of
30 obligation given instead of a prize must be given to a person at the
31 time the person is informed of the prize, if any, the person will
32 receive.

33 (4) The offer, or a copy of the offer, must be returned to the
34 person receiving the prize at the time the prize is awarded.

35 NEW SECTION. **Sec. 8.** A new section is added to chapter 19.170 RCW
36 to read as follows:

1 TELEPHONE ENTRIES. If a person is required or allowed to enter the
2 sweepstakes or contest, or purchase any goods or services or pay any
3 money in connection with a sweepstakes or contest, through a telephone
4 call, the odds of winning each prize, all conditions for receiving the
5 prize, and the no purchase necessary message must be read to the person
6 during the telephone call before accepting the entry, purchase, or
7 payment.

8 **Sec. 9.** RCW 19.170.050 and 1991 c 227 s 5 are each amended to read
9 as follows:

10 (1) No person may produce, advertise, offer for sale, sell,
11 distribute, or otherwise transfer for use in this state a simulated
12 check unless the document bears the phrase "THIS IS NOT A CHECK,"
13 diagonally printed in type at least as large as the predominant
14 typeface in the simulated check on the front of the check itself.

15 (2) No person, other than a financial institution, may produce,
16 advertise, offer for sale, sell, distribute, or otherwise transfer for
17 use in this state a continuing obligation check. A financial
18 institution may not issue a continuing obligation check unless the
19 document bears the phrase "THIS IS A LOAN" or "CASHING THIS REQUIRES
20 REPAYMENT," diagonally printed in type at least as large as the
21 predominant typeface in the continuing obligation check on the front of
22 the check itself.

23 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
24 each repealed:

25 (1) RCW 19.170.030 (Disclosures required) and 1999 c 31 s 1 & 1991
26 c 227 s 3; and

27 (2) RCW 19.170.040 (Disclosures--Prizes awarded--Rain checks) and
28 1991 c 227 s 4.

29 NEW SECTION. **Sec. 11.** Captions used in this act are not part of
30 the law.

--- END ---