

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1792 Session of  
1997

INTRODUCED BY ROONEY, FICHTER, CORPORA, GORDNER, B. SMITH,  
CURRY, READSHAW, THOMAS, WALKO, HENNESSEY, STABACK, ITKIN,  
BELFANTI, OLASZ, COY, HASAY, MASLAND, SEYFERT, CIVERA, TIGUE,  
BOSCOLA, DALLY, CASORIO, LYNCH, EGOLF, SURRA, GEIST, MUNDY,  
BELARDI, SATHER, SERAFINI, FAIRCHILD, LAUGHLIN, TRELLO,  
STEELMAN, C. WILLIAMS AND MELIO, SEPTEMBER 24, 1997

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, SEPTEMBER 24, 1997

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, prohibiting certain representations of  
3 prize or contest winnings.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Title 18 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a section to read:

8 § 5512.1. Representation of prize or contest winning  
9 prohibited.

10 (a) Offense defined.--A person is guilty of a misdemeanor of  
11 the first degree if he, in connection with the sale or lease or  
12 solicitation for the sale or lease of any goods, property or  
13 service represents that another person has won anything of value  
14 or is the winner of any contest unless the following  
15 requirements are satisfied:

16 (1) The advertiser indicates, clearly and conspicuously,

1 the name and address of the advertiser at the commencement of  
2 an oral solicitation or advertisement. If the advertisement  
3 is written, the information must be in bold type at least two  
4 points larger than the type used in the major portion of the  
5 advertisement, and must be placed at the top of the first  
6 page of the advertisement.

7 (2) The method of selection of the recipient of the  
8 prize is one in which no more than 10% of the names  
9 considered are selected as recipients.

10 (3) The prize is given without obligation to the  
11 recipient.

12 (4) The prize is delivered to the recipient at no  
13 expense to the recipient within 30 days after the  
14 representation.

15 (5) The language of the advertisement represents that it  
16 is a sales promotion.

17 (6) The language of the advertisement does not represent  
18 that the recipient has been contacted by telephone or any  
19 other means when no such contact has occurred.

20 (7) The advertisement indicates to the recipient the  
21 brand name of any advertising premium offered. If the  
22 advertising premium consists of a vacation or trip, the  
23 advertiser shall indicate, clearly and conspicuously, the  
24 name and location of the accommodations and whether  
25 transportation to and from the vacation site or point of  
26 departure is included. The advertiser shall not offer a  
27 vacation or trip for which a deposit or other fee is required  
28 of the recipient.

29 (8) The advertisement does not misrepresent the value of  
30 an advertising premium by any means, including, but not

1 limited to, the grouping of advertising premiums of  
2 substantially different value.

3 (9) The advertisement indicates, clearly and  
4 conspicuously, to the recipient that an advertising premium  
5 is discounted, no longer manufactured, damaged or less than  
6 first quality.

7 (10) The advertisement indicates that the advertiser  
8 will disclose upon request and without charge which  
9 advertising premium will be received. The advertiser shall  
10 disclose such information upon request.

11 (11) The advertisement indicates, clearly and  
12 conspicuously, the probability that a person may receive each  
13 advertising premium mentioned in the advertisement. The  
14 probability must be indicated adjacent to the first mention  
15 of each advertising premium and expressed in whole numbers.  
16 If the advertisement is written, such information and any  
17 rule or condition must appear in bold type the same size as  
18 the type used for the major portion of the advertisement.

19 (12) The advertisement indicates, clearly and  
20 conspicuously, the date the prizes are to be awarded and that  
21 a record regarding the names and addresses of the winners  
22 will be provided upon request without charge. The advertiser  
23 shall provide the record to any person upon request.

24 (13) The advertiser does not offer merchandise as a  
25 substitute for a reimbursement for travel, allowance for a  
26 trip or similar plan of compensation.

27 (14) No 900 telephone number or other toll call, except  
28 the charge by the phone company, may be used as the means of  
29 entering the contest.

30 (b) Definition.--As used in this section, the term "language

1 of the advertisement" means the use of any language that has a  
2 tendency to lead a reasonable person to believe he has won a  
3 contest or merchandise of value, including, but not limited to,  
4 "congratulations," "you have won," "you are a winner," "you have  
5 been chosen," "you have been selected" and "you are entitled to  
6 receive."

7       Section 2. This act shall take effect in 60 days.