

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.