



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DATE: January 23, 2019
TO: Honorable Jennifer Williamson, Chair of the House Judiciary Committee
FROM: Kate Denison, Policy Analyst
SUBJECT: HB 2397-2: Contests and Sweepstakes Update

This testimony is presented in support of HB 2397.

Background

By definition, sweepstakes are advertisements or promotional devices by which prizes are awarded to participating consumers by chance, with no purchase, consideration or entry fee required to enter or win. Contests are promotional campaigns where winners are chosen based on some merit or element of skill, such as an essay or photo contest. The Oregon statute governing these solicitations was passed in 1999 as part of a larger legislative package addressing elder abuse. At that time contests and sweepstakes were almost entirely conducted by direct mail, requiring prospective participants to return a postcard or other submission to the sponsor.

Not surprisingly, ORS 646A.803 related to certain disclosures a sponsor must make (as well as general prohibitions) is limited only to those sweepstakes or contests conducted via the United States mail. In 1999 people did not have cell phones like we use today, nor was the internet or email as central to our daily lives. The digital age and evolution of social media have led to resurgence in the use of marketing promotions such as sweepstakes, and the law should be updated to encompass all methods of participation, not just promotions conducted by mail.

Concept

The -2 Amendments to HB 2397 remove references to the United States mail in subsections (2), (3) and (4) of ORS 646A.803 in order to bring the statute in line with modern forms of communication.

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