

## HOUSE AMENDMENTS TO HOUSE BILL 2397

By COMMITTEE ON JUDICIARY

February 11

1 On page 1 of the printed bill, delete lines 4 through 31 and delete pages 2 and 3 and insert:

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

3 “646A.803. (1) As used in this section:

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

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

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

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

22 “(B) In the case of printed solicitations:

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

24 “(ii) Be of sufficient prominence in terms of placement, font or color contrast as compared with  
25 the remainder of the solicitation so as to be reasonably apparent to the audience to whom it is di-  
26 rected.

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

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

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

32 “(c) The maximum total cost the final winner will have paid to the sponsor to participate in the  
33 contest;

34 “(d) Whether the final winner must purchase or pay anything of value to a person other than  
35 the sponsor if purchasing or paying is a condition of eligibility;

1           “(e) If the contest involves multiple rounds of increasing difficulty, an example illustrative of the  
2 last determinative round or a statement that subsequent rounds will be more difficult;

3           “(f) If the contest is judged by someone other than the sponsor, the identity of or description  
4 of the qualifications of the judges;

5           “(g) The method used in judging; and

6           “(h) The name and address of the sponsor or the sponsor’s agent.

7           “(3) A person engages in an unlawful practice when, in the course of the person’s business, vo-  
8 cation or occupation, the person [*uses the United States mail to solicit*] **solicits** participation in a  
9 sweepstakes and does not clearly and conspicuously disclose in the solicitation:

10          “(a) The odds of winning in Arabic numerals, except that if the odds of winning depend on the  
11 number of entries received, a statement to that effect will be deemed sufficient;

12          “(b) The name and address of the sponsor or the sponsor’s agent, consistently stated wherever  
13 it is used; and

14          “(c) The procedure for entry without purchase.

15          “(4) A person engages in an unlawful practice when, in the course of the person’s business, vo-  
16 cation or occupation, the person solicits participation in a contest or sweepstakes **by representing**  
17 **that a person:**

18          “(a) [*By using the United States mail to represent that a person*] Has been selected to receive or  
19 has won a particular prize, when that is not the case; or

20          “(b) [*By using the United States mail to represent that a person*] Is a winner, is a finalist, is in  
21 first place or is otherwise in a limited group of persons with an enhanced likelihood of winning or  
22 receiving a prize, when more than 25 percent of the persons receiving the solicitation have the same  
23 chance of winning.”.

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