
By: Senator Astle

Introduced and read first time: February 2, 1996

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 22, 1996

CHAPTER ____

1 AN ACT concerning

2 **Consumer Protection - Prizes and Gifts**

3 FOR the purpose of ~~repealing a certain provision of law that prohibits a person from~~
4 ~~notifying another person, as part of an advertising scheme or plan, that the other~~
5 ~~person has won a prize, received an award, or has been selected to receive anything~~
6 ~~of value if the other person is required to purchase goods or services, pay money to~~
7 ~~participate in, or submit to a sales promotion effort~~ providing a limited exception to
8 certain provisions of law prohibiting offers of prizes and gifts conditioned on
9 purchasing goods or services; making conforming changes; and generally relating to
10 offers of prizes and gifts.

11 BY repealing and reenacting, with amendments,

12 Article - Commercial Law

13 Section 13-305

14 Annotated Code of Maryland

15 (1990 Replacement Volume and 1995 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Commercial Law**

19 13-305.

20 (a) This section does not apply to:

21 (1) Trading stamps, as defined by § 13-101 of the Business Regulation

22 Article;

2

1 (2) State lottery tickets issued under the authority of Title 9, Subtitle 1 of
2 the State Government Article;

3 (3) Retail promotions, not involving the offer of gifts and prizes, which offer
4 savings on consumer goods or services including "one-cent sales",
5 "two-for-the-price-of-one-sales", or manufacturer's "cents-off" coupons; or

6 (4) Games of skill competition not involving sales promotion efforts.

7 ~~{(b) A person may not notify any other person by any means, as part of an~~
8 ~~advertising scheme or plan, that the other person has won a prize, received an award, or~~
9 ~~has been selected or is eligible to receive anything of value if the other person is required~~
10 ~~to purchase goods or services, pay any money to participate in, or submit to a sales~~
11 ~~promotion effort.}~~

12 (C) IN ADDITION TO THE EXCEPTIONS PROVIDED IN SUBSECTION (A) OF THIS
13 SECTION, SUBSECTION (B) OF THIS SECTION DOES NOT PROHIBIT THE OFFER OF
14 PRIZES REQUIRING THE PERSON TO PURCHASE OTHER GOODS AND SERVICES IF
15 THE RETAIL PRICE OF THE PRIZE OFFERED DOES NOT EXCEED THE GREATER OF:

16 (1) \$40; OR

17 (2) THE LESSER OF:

18 (I) 20% OF THE PURCHASE PRICE OF THE GOODS OR SERVICES
19 THAT MUST BE PURCHASED; OR

20 (II) \$400.

21 (D) THE EXCEPTION PROVIDED IN SUBSECTION (C) OF THIS SECTION DOES
22 NOT APPLY TO THE OFFER OF A PRIZE REQUIRING THE PERSON EITHER TO PAY
23 ANY MONEY TO PARTICIPATE IN OR TO SUBMIT TO A SALES PROMOTION EFFORT,
24 OR TO A PRIZE PROMOTION INVOLVING THE AWARD OF PRIZES BY CHANCE.

25 [(c)] ~~(B)~~ (E) When a person offers prizes in a sales promotion effort relating to
26 the sale, lease, or rental of real property not prohibited by this ~~subsection~~ SECTION, that
27 person shall disclose to each offeree, in writing, clearly and conspicuously:

28 (1) That the purpose of the sales promotion effort is to solicit the purchase,
29 lease, or rental of real property;

30 (2) The exact number of each prize offered in each category to be made
31 available during the sales promotion;

32 (3) The manufacturer's suggested retail price or comparable retail price of
33 each prize offered;

34 (4) (i) If calculable in advance, the odds against winning each prize; or

35 (ii) If not calculable in advance, a statement to that effect, or that the
36 odds of winning will be determined by the number of entries;

37 (5) Whether all prizes offered will be awarded and when a determination of
38 winners will be made; and

3

1 (6) If prizes with retail prices or monetary values in excess of \$100 are
2 offered, where and when a list of winners of those prizes can be obtained.

3 [(d)] ~~(E)~~ (F) Where provisions of law or regulations relating to the awarding of
4 prizes in the sale, lease, or rental of real property exist, including § 11A-119 of the Real
5 Property Article, the provisions of those laws or regulations shall apply if the provisions
6 are more stringent than this section.

7 [(e)] ~~(D)~~ (G) If a person offers a contest, sweepstakes, or other sales promotion
8 effort not prohibited by this ~~subsection~~ SECTION, involving the award of prizes by chance,
9 that person shall disclose to each offeree in writing:

10 (1) The exact number of each prize offered in each category to be made
11 available during the contest, sweepstakes, or sales promotion;

12 (2) The manufacturer's suggested retail price, or comparable retail price, of
13 each prize offered;

14 (3) If calculable in advance, the odds against winning each prize and if not
15 calculable in advance, a statement that the odds of winning will be determined by the
16 number of entries;

17 (4) Whether all prizes offered will be awarded and when a determination of
18 winners will be made;

19 (5) What, if any, conditions must be met in order to receive a prize;

20 (6) If prizes with retail prices or monetary values in excess of \$100 are
21 offered, where and when a list of winners of those prizes can be obtained; and

22 (7) That in order to receive the prize offered in the sales promotion you may
23 not be required to:

24 (i) Purchase goods or services;

25 (ii) Pay any money; or

26 (iii) Where applicable, submit to a sales promotion effort.

27 [(f)] ~~(E)~~ (H) If a person offers a contest, sweepstakes, or other sales promotion
28 effort not prohibited by this ~~subsection~~ SECTION, not involving the award of prizes by
29 chance, that person shall disclose to each offeree in writing:

30 (1) The manufacturer's suggested retail price, or comparable retail price of
31 each prize offered;

32 (2) What, if any, conditions must be met in order to receive a prize; and

33 (3) That in order to receive the prize offered in the sales promotion you may
34 not be required to:

35 (i) Purchase goods or services, UNLESS THE RETAIL PRICE OF THE
36 PRIZE IS WITHIN THE LIMITS SET BY SUBSECTION (C) OF THIS SECTION;

37 (ii) Pay any money; or

4

1 (iii) Where applicable, submit to a sales promotion effort.

2 [(g)] ~~(F)~~ (I) The disclosures shall appear on the first page of the prize
3 notification document.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 1996.