

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Department of Justice)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2397**

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

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

4 “646A.803. (1) As used in this section:

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

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

21 “(c) ‘Clearly and conspicuously’ means the message is conveyed in a

1 manner that is reasonably apparent to the audience to whom it is directed.
2 In order for a message to be considered clear and conspicuous, it shall, at
3 a minimum:

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

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

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

9 “(ii) Be of sufficient prominence in terms of placement, font or color
10 contrast as compared with the remainder of the solicitation so as to be rea-
11 sonably apparent to the audience to whom it is directed.

12 “(2) A person engages in an unlawful practice when, in the course of the
13 person’s business, vocation or occupation, the person [*uses the United States*
14 *mail to solicit*] **solicits** participation in a contest and the person does not
15 clearly and conspicuously disclose in the solicitation:

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

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

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

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

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

27 “(f) If the contest is judged by someone other than the sponsor, the iden-
28 tity of or description of the qualifications of the judges;

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

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

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

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

8 “(b) The name and address of the sponsor or the sponsor’s agent, con-
9 sistently stated wherever it is used; and

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

11 “(4) A person engages in an unlawful practice when, in the course of the
12 person’s business, vocation or occupation, the person solicits participation
13 in a contest or sweepstakes **by representing that a person:**

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

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

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