

1 AN ACT concerning prizes and gifts.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Prizes and Gifts Act.

6 Section 5. Legislative intent. The General Assembly
7 finds that deceptive promotional advertising of prizes is a
8 matter vitally affecting the public interest in this State.

9 Section 10. Definitions. As used in this Act:

10 "Catalog seller" means an entity (and its subsidiaries)
11 or a person at least 50% of whose annual revenues are derived
12 from the sale of products sold in connection with the
13 distribution of catalogs of at least 24 pages, which contain
14 written descriptions or illustrations and sale prices for
15 each item of merchandise and which are distributed in more
16 than one state with a total annual distribution of at least
17 250,000.

18 "Person" means a corporation, partnership, limited
19 liability company, sole proprietorship, or natural person.

20 "Prize" means a gift, award, or other item or service of
21 value that is offered or awarded to a participant in a real
22 or purported contest, competition, sweepstakes, scheme, plan,
23 or other selection process that involves an element of
24 chance.

25 "Retail value" of a prize means:

26 (1) a price at which the sponsor can substantiate
27 that a substantial quantity of the item or service
28 offered as a prize has been sold to the public; or

29 (2) if the sponsor is unable to satisfy the
30 requirement in subdivision (1), no more than 3 times the

1 amount the sponsor paid for the prize in a bona fide
2 purchase from an unaffiliated seller.

3 "Sponsor" means a person on whose behalf a promotion is
4 conducted to promote or advertise goods, services, or
5 property of that person. "Sponsor" includes a person who
6 conducts a promotion on behalf of another sponsor.

7 Section 15. Application of Act. Except as otherwise
8 provided in this Act, this Act applies only to a written
9 promotional offer that is:

- 10 (1) made to a person in this State;
- 11 (2) used to induce or invite a person to come to
12 this State to claim a prize, attend a sales presentation,
13 meet a promoter, sponsor, salesperson, or agent, or
14 conduct any business in this State; or
- 15 (3) used to induce or invite a person to contact by
16 any means a promoter, sponsor, salesperson, or agent in
17 this State.

18 Section 20. No payment required.

19 (a) No sponsor may require a person in this State to pay
20 the sponsor money as a condition of awarding the person a
21 prize, or as a condition of allowing the person to receive,
22 use, compete for, or obtain information about a prize.

23 (b) A sponsor shall not represent that a person has won
24 or unconditionally will be the winner of a prize or represent
25 that he or she has won a prize, unless all of the following
26 conditions are met:

- 27 (1) the person is given the prize without
28 obligation;
- 29 (2) the person is notified at no expense to him or
30 her within 15 days of winning the prize; and
- 31 (3) the representation is not false, deceptive, or
32 misleading.

1 Section 25. Disclosures required. A written promotional
2 prize offer must contain each of the following in a clear and
3 conspicuous statement at the onset of the offer:

4 (1) the true name or names of the sponsor and the
5 address of the sponsor's actual principal place of
6 business;

7 (2) the retail value of each prize the person
8 receiving the notice has been selected to receive or may
9 be eligible to receive;

10 (3) a disclosure that no purchase is necessary to
11 enter such written promotional offer;

12 (4) a disclosure that a purchase will not improve
13 the person's chances of winning with an entry;

14 (5) a statement of the person's odds of receiving
15 each prize identified in the notice;

16 (6) any requirement that the person pay the actual
17 shipping or handling fees or any other charges to obtain
18 or use a prize, including the nature and amount of the
19 charges;

20 (7) if receipt of the prize is subject to a
21 restriction, a description of the restriction;

22 (8) any limitations on eligibility; and

23 (9) if a sponsor represents that the person is a
24 "finalist", has been "specially selected", is in "first
25 place", or is otherwise among a limited group of persons
26 with an enhanced likelihood of receiving a prize, the
27 written prize notice must contain a statement of the
28 maximum number of persons in the group or purported group
29 with this enhanced likelihood of receiving a prize.

30 Section 30. Prize award required. A sponsor who
31 represents that a person has been awarded a prize shall, not
32 later than 30 days after making the representation, provide
33 the person with:

- 1 (1) the prize;
- 2 (2) a voucher, certificate, or other document
- 3 giving the person the prize; or
- 4 (3) the retail value of the prize, as stated in the
- 5 written prize notice, in the form of cash, a money order,
- 6 or a certified check.

7 Section 32. Advertising media exempt. Nothing in this
 8 Act creates liability for acts by the publisher, owner,
 9 agent, or employee of a newspaper, periodical, radio station,
 10 television station, cable television system, or other
 11 advertising medium arising out of the publication or
 12 dissemination of a solicitation, notice, or promotion
 13 governed by this Section unless the publisher, owner agent,
 14 or employee had knowledge that the solicitation, notice, or
 15 promotion violated the requirements of this Section, or had a
 16 financial interest in the solicitation, notice, or promotion.

17 Section 35. Exemptions. This Act does not apply to
 18 solicitations or representations in connection with:

- 19 (1) the sale or purchase of books, recordings,
- 20 video cassettes, periodicals, and similar goods through
- 21 a membership group or club that is regulated by the
- 22 Federal Trade Commission under Code of Federal
- 23 Regulations, Title 16, part 425.1, concerning the use of
- 24 negative option plans by sellers in commerce;
- 25 (2) the sale or purchase of goods ordered through a
- 26 contractual plan or arrangement such as a continuity
- 27 plan, subscription arrangement, or a single sale or
- 28 purchase series arrangement under which the seller ships
- 29 goods to a consumer who has consented in advance to
- 30 receive the goods and after the receipt of the goods is
- 31 given the opportunity to examine the goods and to receive
- 32 a full refund of charges for the goods upon return of the

- 1 goods in an undamaged condition;
- 2 (3) sales by a catalog seller;
- 3 (4) the State lottery created and regulated under
- 4 the Illinois Lottery Law;
- 5 (5) the sale or purchase of membership camping
- 6 contracts in accordance with the Illinois Membership
- 7 Campground Act; or
- 8 (6) the sale or purchase of time-shares created and
- 9 regulated under the Illinois Real Estate Time-Share Act.

10 Section 40. Violations.

11 (a) Nothing in this Act may be construed to permit an
12 activity otherwise prohibited by law.

13 (b) Enforcement by consumer. A consumer who suffers
14 loss by reason of any intentional violation of any provision
15 of this Act may bring a civil action to enforce that
16 provision. A consumer who is successful in such an action
17 shall recover the greater of \$500 or twice the amount of the
18 pecuniary loss, reasonable attorney's fees, and court costs
19 incurred by bringing such action.

20 (c) Enforcement by Attorney General or State's Attorney.
21 Violation of any of the provisions of this Act is an unlawful
22 practice under the Consumer Fraud and Deceptive Business
23 Practices Act. All remedies, penalties, and authority
24 granted to the Attorney General or State's Attorney by that
25 Act shall be available to him or her for the enforcement of
26 this Act.

27 Section 90. Severability. If any provision of this Act
28 or the application thereof to any person or circumstance is
29 held invalid, the invalidity shall not affect other
30 provisions or applications of the Act which can be given
31 effect without the invalid provision or application and to

1 this end the provisions of this Act are severable.