

1878

2009-2010 Regular Sessions

I N S E N A T E

February 9, 2009

Introduced by Sens. KLEIN, DIAZ, ONORATO, SAMPSON, SMITH -- read twice
and ordered printed, and when printed to be committed to the Committee
on Consumer Protection

AN ACT to amend the general business law, in relation to prize award
scheme disclosures and to repeal paragraph (f) of subdivision 3 of
section 369-ee of such law relating to certain exemptions from the
prize award schemes statute

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (c) of subdivision 1 of section 369-ee of the
2 general business law, as amended by chapter 240 of the laws of 1997, is
3 amended to read as follows:
4 (c) (1) Such written disclosure must be furnished to the consumer at
5 the time he is notified of the prize and must be written or printed in a
6 size equal to at least that type used for the standard text on the front
7 of the first page of the offer. The written disclosure must clearly and
8 conspicuously disclose all of the following: (i) a full description of
9 the exact prize won by the consumer including a list price which does
10 not appreciably exceed the highest price at which substantial sales are
11 made in the offering area; (ii) all material terms and conditions
12 attached to the prize; (iii) a statement, where applicable, that the
13 consumer must submit to a sales presentation; (iv) a full description of
14 the product, real estate, investment, services, membership or any other
15 item to be offered for sale, including the price of the least expensive
16 and the most expensive item or parcel; (v) a notice that if the consumer
17 decides to purchase any item offered for sale he has three business days
18 in which to cancel such sale; [and] (vi) A STATEMENT THAT THE CONSUMER
19 HAS NOT AUTOMATICALLY WON A PRIZE; (VII) the odds of winning each prize
20 must be conspicuously disclosed in the same type face, size and boldness
21 and adjacent to the most prominent listing of the prizes on the front of
22 the first page of the offer, with the odds stated in arabic numbers and

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 identify the total number of prizes to be given away and the total
2 number of offerings to be distributed[.], INCLUDING THE QUANTITY, ESTI-
3 MATED RETAIL VALUE, AND NATURE OF ALL PRIZES, AND THE SCHEDULE OF ANY
4 PAYMENTS TO BE MADE OVER TIME; (VIII) A STATEMENT THAT NO PURCHASE IS
5 REQUIRED TO WIN A PRIZE OR TO ENHANCE THE CHANCES OF WINNING A PRIZE;
6 (IX) THAT INDIVIDUALS NOT PURCHASING PRODUCTS WILL NOT BE DISQUALIFIED
7 FROM RECEIVING FUTURE MAILINGS; (X) THAT AN ENTRY NEED NOT BE ACCOMPA-
8 NIED BY A PAYMENT FOR A PRODUCT ORDERED; (XI) THAT AN INDIVIDUAL IS NOT
9 A WINNER, UNLESS THAT INDIVIDUAL HAS WON A PRIZE; (XII) ALL TERMS AND
10 CONDITIONS OF A SWEEPSTAKES PROMOTION, INCLUDING THE RULES AND ENTRY
11 PROCEDURES FOR THE SWEEPSTAKES, IN LANGUAGE THAT IS EASY TO FIND, READ,
12 AND UNDERSTAND; (XIII) THE NAME OF THE PERSON MAILING SUCH MATTER AND
13 THE PRINCIPAL PLACE OF BUSINESS OF SUCH PERSON; (XIV) ANY FEES, CHARGES,
14 AND CONDITIONS TO BE MET TO RECEIVE THE PRIZE IN ANY PROMOTIONAL MAILING
15 AWARDING FREE PRIZES OR AWARDS; AND (XV) IF ANY FACSIMILE CHECK IS
16 INCLUDED, CONTAIN A STATEMENT THAT SUCH CHECKS ARE NOT NEGOTIABLE
17 INSTRUMENTS AND HAVE NO CASH VALUE. NO WRITING SUBMITTED TO A CONSUMER
18 SHALL CONTAIN ANY STATEMENT THAT CONTRADICTS OR IS INCONSISTENT WITH
19 CONTEST RULES, INCLUDING ANY STATEMENT QUALIFYING, LIMITING, OR EXPLAIN-
20 ING SUCH RULES IN A MANNER INCONSISTENT WITH SUCH RULES.

21 (2) ANY ENVELOPE OR OTHER WRAPPING IN WHICH A PRIZE AWARD SCHEME IS
22 SUBMITTED TO A CONSUMER SHALL STATE IN TYPE NO SMALLER THAN THE NAME OF
23 THE CONSUMER TO WHOM IT IS ADDRESSED THE FOLLOWING NOTICE WHERE APPLICA-
24 BLE: "THIS IS A GAME OF CHANCE OR SWEEPSTAKES. YOU HAVE NOT AUTOMAT-
25 ICALLY WON ANYTHING."

26 S 2. Paragraph (f) of subdivision 3 of section 369-ee of the general
27 business law is REPEALED.

28 S 3. This act shall take effect on the first of November next succeed-
29 ing the date on which it shall have become a law.