

**SUBSTITUTE FOR  
HOUSE BILL NO. 4751**

A bill to prohibit the payment of money or other consideration as a condition of awarding a prize under certain circumstances; to prescribe the disclosure of certain information to certain persons; to prescribe the powers and duties of certain state and local officials relating to the regulation of certain prizes and sweepstakes; and to prescribe penalties and provide remedies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "prize and sweepstakes regulation act".

3       Sec. 2. As used in this act:

4       (a) "Consideration" means a good, service, or money paid to  
5 a sponsor or solicitor that is greater in value than the regular  
6 first-class postage of a 1-ounce letter mailed and delivered in  
7 the United States.

**HB4751, As Passed House, October 6, 1999**

House Bill No. 4751

2

1 (b) "Official rules" means a printed statement that clearly  
2 and conspicuously contains all of the following:

3 (i) The rules governing the sweepstakes described in the  
4 sweepstakes entry material.

5 (ii) A statement identifying any limitations on  
6 eligibility.

7 (iii) A statement identifying the typical entrant's odds of  
8 winning, expressed in Arabic numerals as a ratio in which the  
9 numerator equals the actual number of each prize to be distrib-  
10 uted and the denominator equals the total number of entrants that  
11 the solicitor or sponsor has reasonably calculated will likely  
12 enter the sweepstakes. The odds shall be labeled "ODDS OF  
13 WINNING", in contrasting typeface, not smaller than the largest  
14 type in the text of the official rules and shall be listed sepa-  
15 rately for each prize with the phrase "1: [insert total number  
16 of anticipated entrants]".

17 (iv) A statement specifying that no purchase is necessary to  
18 win.

19 (v) Any other disclosure required by law.

20 (c) "Person" means an individual, partnership, corporation,  
21 association, or other legal entity.

22 (d) "Prize" means a gift, award, or other item or service of  
23 value offered or given to a person by chance.

24 (e) "Prize notice" means a notice delivered by mail to a  
25 person in this state that represents that the person has been  
26 selected or may be eligible to receive a prize.

**HB4751, As Passed House, October 6, 1999**

House Bill No. 4751

3

1 (f) "Prize notice" does not include any of the following:

2 (i) A notice given at the request of the person.

3 (ii) A notice informing the person that he or she has been  
4 awarded a prize as a result of his or her actual prior entry in a  
5 game, drawing, sweepstakes, or other contest, if the person is  
6 awarded the prize stated in the notice.

7 (g) "Solicitor" means a person who gives a prize notice.

8 (h) "Sponsor" means a person on whose behalf a solicitor  
9 gives a prize notice.

10 (i) "Sweepstakes entry material" means any written documents  
11 required to be submitted to the sweepstakes solicitor or sponsor  
12 to enter a sweepstakes.

13 Sec. 3. A sweepstakes solicitor or sponsor shall provide  
14 the sweepstakes' official rules to each individual solicited to  
15 enter the sweepstakes. A sweepstakes solicitor or sponsor shall  
16 not require a person to make a payment, promise to pay, or give  
17 the solicitor or sponsor any consideration in order to obtain, be  
18 eligible for, or use a prize or to determine whether a prize has  
19 been won or which prize has been won.

20 Sec. 4. A sales solicitation that includes an opportunity  
21 to enter a sweepstakes shall not represent that a person is a  
22 sweepstakes winner or has already won a prize unless that person  
23 is the sweepstakes winner or has actually won a prize. If a  
24 statement relating to a person's winning is subject to qualifica-  
25 tions, and that statement is on or visible through the mailing  
26 envelope containing the sweepstakes entry material, the

1 qualifications shall also be clearly stated on or visible through  
2 the mailing envelope.

3       Sec. 5. A sales solicitation that includes sweepstakes  
4 entry material shall contain a clear and conspicuous statement  
5 that no purchase is necessary to enter the sweepstakes.  
6 Additionally, that statement shall appear clearly and conspicu-  
7 ously on the sweepstakes entry or order form and in sweepstakes  
8 official rules.

9       Sec. 6. (1) Sweepstakes entry material shall include the  
10 official rules of the sweepstakes, prominently identified as the  
11 official rules governing the sweepstakes. Any sweepstakes entry  
12 material or accompanying sales solicitation that refers to an  
13 official rule shall specifically reference the official rules.

14       (2) A sales solicitation that includes an opportunity to  
15 enter a sweepstakes shall not represent any of the following:

16       (a) That an entry in the sweepstakes accompanied by an order  
17 for a good or service is eligible for more prizes, or has a  
18 greater chance of winning a prize, than an entry that is not  
19 accompanied by an order for a good or service.

20       (b) That an entry in the sweepstakes that is not accompanied  
21 by an order for a good or service will be eligible for fewer  
22 prizes, or has a reduced chance of winning, than an entry that is  
23 accompanied by an order for a good or service.

24       (3) For every sales solicitation that includes entry mate-  
25 rial for a sweepstakes with a preselected winning number, the  
26 sponsor or solicitor shall do either of the following:

1       (a) Ensure that the preselected winning number and, if  
2 applicable, any alternate winning number, is within the range of  
3 numbers actually mailed by the sponsor or solicitor for that  
4 sweepstakes.

5       (b) If the preselected winning number is not returned at the  
6 end of the sweepstakes period, award the prize offered in that  
7 sweepstakes in a random drawing from among other eligible  
8 entrants in accordance with the terms upon which the sweepstakes  
9 was originally offered.

10       (4) Except as otherwise provided in section 10, if a solici-  
11 tor or sponsor offers a prize, that prize shall be awarded within  
12 1 year after the date the winner is notified that he or she has  
13 won the prize.

14       Sec. 7. (1) A written prize notice shall be a single docu-  
15 ment that prominently and conspicuously discloses all of the fol-  
16 lowing information:

17       (a) The true name or names of the solicitor and sponsor and  
18 the address or addresses of the solicitor's and sponsor's place  
19 of business.

20       (b) If the notice contains an invitation for the person to  
21 view, hear, or attend a sales presentation, the approximate  
22 length of the sales presentation, and an accurate and complete  
23 description of the good or service that is the subject of the  
24 sales presentation.

25       (c) If receipt of the prize is subject to a restriction, a  
26 statement that a restriction applies, a description of the

1 restriction, and a statement containing the location in the  
2 notice where the restriction is described.

3       (2) The information required in a written prize notice under  
4 subsection (1)(b) shall be in not less than 10-point boldfaced  
5 type. If the written prize notice is on more than 1 page, the  
6 information required under subsection (1) shall be on the cover  
7 page of that written prize notice. The information required  
8 under subsection (1)(c) shall be in not less than 10-point bold-  
9 faced type.

10       Sec. 8. A solicitor or sponsor shall not do any of the  
11 following:

12       (a) Distribute a written prize notice that contains lan-  
13 guage, or is designed in a manner, that would lead a reasonable  
14 person to believe that it originates from a government agency,  
15 public utility, insurance company, consumer reporting agency,  
16 debt collector, or law firm unless the written prize notice orig-  
17 inates from that source.

18       (b) Represent directly or by implication that the number of  
19 persons eligible for the prize is limited or that a person has  
20 been selected to receive a particular prize unless the represen-  
21 tation is true.

22       (c) Require or invite a person to pay shipping or handling  
23 fees to obtain a prize.

24       Sec. 9. If a prize notice invites a person to view, hear,  
25 or attend a sales presentation, the sales presentation shall not  
26 begin until the solicitor does all of the following:

**HB4751, As Passed House, October 6, 1999**

House Bill No. 4751

7

1 (a) Informs the person of the prize, if any, that has been  
2 awarded to the person.

3 (b) If the person has been awarded a prize, delivers to the  
4 person the prize or the item selected by the person under section  
5 7 if the prize is not available.

6 Sec. 10. (1) A solicitor who represents to a person in a  
7 written prize notice that the person has been awarded a prize  
8 shall provide the prize to the person unless the prize is not  
9 available. If the prize is not available, the solicitor shall  
10 provide the person with 1 of the following items selected by the  
11 person:

12 (a) A prize listed in the written prize notice that is  
13 available and that is of equal or greater value.

14 (b) The verifiable retail value of the prize in the form of  
15 cash, a money order, or a certified check.

16 (c) A voucher, certificate, or other evidence of obligation  
17 stating that the prize will be shipped to the person within 30  
18 days at no cost to the person.

19 (2) Within 30 days after delivery of a voucher, certificate,  
20 or other evidence of obligation under subsection (1), the solici-  
21 tor shall either honor the voucher, certificate, or other evi-  
22 dence of obligation or deliver to the person the verifiable  
23 retail value of the prize in the form of cash, a money order, or  
24 a certified check. The sponsor shall promptly make the payment  
25 to the person if the solicitor fails to do so.

26 Sec. 11. (1) The attorney general or a county prosecutor  
27 shall investigate violations of this act, and on behalf of this

1 state may bring an action in the circuit court for 1 or more of  
2 the following:

3       (a) Temporary or permanent injunctive or other relief for a  
4 violation of this act.

5       (b) The sanctions authorized under section 12.

6       (c) Rescission of a contract for goods or services offered  
7 in conjunction with a prize promotion that violates this act.

8       (2) Upon entry of final judgment in an action authorized  
9 under subsection (1), the court may award restitution to a person  
10 who suffered loss arising from a prize promotion that violates  
11 this act if proof of the loss is submitted to the satisfaction of  
12 the court.

13       Sec. 12. (1) A sponsor or solicitor who violates this act  
14 is liable for a civil fine of not less than \$100.00 or more than  
15 \$5,000.00 for each violation.

16       (2) A sponsor or solicitor who intentionally violates this  
17 act is guilty of a felony punishable by imprisonment for not more  
18 than 2 years or a fine of not more than \$10,000.00, or both, for  
19 each violation. It is evidence of intent if the violation occurs  
20 after the office of the attorney general or of a county prosecu-  
21 tor has notified a sponsor or solicitor by certified mail that  
22 the sponsor or solicitor is in violation of this act.

23       (3) A person who suffers pecuniary loss because of an inten-  
24 tional violation of this act may bring an action in a court of  
25 competent jurisdiction to recover his or her costs, reasonable  
26 attorney fees, and the greater of \$1,000.00 or twice the amount  
27 of the pecuniary loss.



**HB4751, As Passed House, October 6, 1999**

House Bill No. 4751

9

1       Sec. 13. (1) This act does not apply to the following:

2       (a) Pari-mutuel betting on horse racing permitted and regu-  
3 lated under the horse racing law of 1995, 1995 PA 279,  
4 MCL 431.301 to 431.336.

5       (b) The lottery established and regulated under the  
6 McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239,  
7 MCL 432.1 to 432.47.

8       (c) Bingo and other forms of gambling regulated under the  
9 Traxler-McCauley-Law-Bowman bingo act, 1972 PA 382, MCL 432.101  
10 to 432.120.

11       (2) This act does not apply to a charitable solicitation if  
12 the charitable solicitation is authorized by and complies with 1  
13 of the acts listed in subsection (1).