CHAPTER 53-11
CONTEST PRIZE NOTICES

53-11-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Prize" means an item or service of value that is offered or awarded to a participant in a real or purported contest, competition, sweepstakes, puzzle, drawing, scheme, plan, or other selection process.
2. "Retail value" of a prize means:
   a. A price at which the sponsor can substantiate that a substantial number of the prizes have been sold to the public in this state during the preceding year; or
   b. If the sponsor is unable to satisfy the requirement in subdivision a, then no more than one and one-half times the amount the sponsor paid or would pay for the prize in a bona fide purchase from an unaffiliated seller.
3. "Sponsor" means a person that requires another person in this state to pay money as a condition of awarding the person a prize, or as a condition of allowing the person to receive, use, compete for, or obtain information about a prize, or that creates the reasonable impression that such a payment is required.

53-11-02. Disclosures required.

1. A sponsor may not require a person to pay the sponsor money as a condition of awarding the person a prize, or as a condition of allowing the person to receive, use, compete for, or obtain information about a prize. A sponsor may not use a solicitation that creates the reasonable impression that a payment is required, unless the sponsor first has delivered to the person written prize notice containing the following information:
   a. The true name or names of the sponsor and the address of the sponsor's actual principal place of business;
   b. The retail value of each prize the person receiving the notice has been selected to receive or may be eligible to receive;
   c. A statement of the person's odds of receiving each prize identified in the notice;
   d. Any requirement that the person pay shipping or handling fees or any other charges to obtain or use a prize, including the nature and amount of the charges;
   e. If receipt of the prize is subject to a restriction, a statement that a restriction applies, and a description of the restriction;
   f. Any limitation on eligibility; and
   g. If a sponsor represents that the person is a "winner", is a "finalist", has been "specially selected", is in "first place", or is otherwise among a limited group of persons with an enhanced likelihood of receiving a prize, the written prize notice must contain a statement of the maximum number of persons in the group or purported group with this enhanced likelihood of receiving a prize.
2. The information required by subsection 1 must be presented in the following form:
   a. The retail value and the statement of odds required must be stated in immediate proximity to each identification of a prize on the written notice and must be in the same size and boldness of type as the reference to the prize. The statement of odds must include, for each prize, the total number of prizes to be given away and the total number of written prize notices to be distributed. The number of prizes and written prize notices must be stated in Arabic numerals. The statement of odds must be in the following form:

      _____ (number of prizes) out of_____ notices distributed.

   b. If a person is required to pay a shipping or handling fee or any other charge to obtain a prize, to be eligible to obtain a prize, or participate in a contest, the following statement must appear in immediate proximity to each listing of the prize in the written prize notice, in not less than ten-point boldface type: YOU MUST PAY $_____ TO RECEIVE THIS ITEM or YOU MUST PAY $_____ TO COMPETE FOR THIS ITEM, whichever is applicable.

c. The statement required under subdivision g of subsection 1 must appear in immediate proximity to each representation that the person is among a group of persons with an enhanced likelihood of receiving a prize and must be in the same size and boldness of type as the representation.

53-11-03. Prize award required.

No later than thirty days after making the representation, a sponsor who represents to a person that the person has been awarded a prize shall provide the person with the prize, or with a voucher, certificate, or other document giving the person the unconditional right to receive the prize, or provide the person with either of the following items selected by the person:

1. Any other prize listed in the written prize notice that is available and that is of equal or greater value; or
2. The retail value of the prize, as stated in the written notice, in the form of cash, a money order, or a certified check.

53-11-04. Exemptions.

1. This chapter does not create liability for acts by the publisher, owner, agent, or employee of an advertising agency, a newspaper, periodical, radio station, television station, cable television system, or other advertising medium arising out of the publication or dissemination of a solicitation, notice, or promotion governed by this chapter, unless the publisher, owner, agent, or employee had knowledge that the solicitation, notice, or promotion violated the requirements of this chapter, or had a financial interest in the solicitation, notice, or promotion.
2. This chapter does not apply to solicitations or representations, in connection with:
   a. The sale or purchase of books, recordings, videocassettes, periodicals, and similar goods through a membership group or club that is regulated by the federal trade commission under title 16, Code of Federal Regulations, part 425.1, concerning use of negative option plans by sellers in commerce.
   b. The sale or purchase of goods ordered through a contractual plan or arrangement such as a continuity plan, subscription arrangement, or a single sale or purchase series arrangement under which the seller ships goods to a consumer who has consented in advance to receive the goods and after the receipt of the goods is given the opportunity to examine the goods and to receive a full refund of charges for the goods upon return of the goods undamaged.
   c. A sale by a catalog seller that derives at least fifty percent of its annual revenues from the sale of products sold in connection with the distribution of catalogs of at least twenty-four pages that contain written descriptions or illustrations and sale prices for each item of merchandise, if the catalogs are distributed in more than one state with a total annual distribution of at least two hundred fifty thousand.

53-11-05. Penalty - Remedies.

1. A violation of this chapter is an unlawful practice in violation of section 51-15-02 and is subject to applicable provisions of chapter 51-15.
2. A person who intentionally violates this chapter is guilty of a class C felony. It is evidence of intent if the violation occurs after the attorney general has notified a person by certified mail that the person is in violation of this section.
3. A person suffering pecuniary loss because of an intentional violation of this chapter may bring an action in district court to recover costs, reasonable attorney's fees, and the greater of five hundred dollars or twice the amount of the pecuniary loss.
4. This chapter provides relief in addition to the remedies or penalties provided under other law.