
SENATE BILL 5232

State of Washington 62nd Legislature 2011 Regular Session

By Senators Kilmer, Hobbs, Carrell, Keiser, and Kohl-Welles

Read first time 01/18/11. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to prize-linked savings deposits; amending RCW
2 9.46.0356 and 19.170.020; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that consumer savings
5 is essential, both for individuals seeking to obtain the American
6 dream, and in order to rebuild a strong economy. The legislature
7 further finds that for most of the last two decades, consumers have
8 borrowed more than they have saved, with current United States savings
9 rates under six percent. The legislature intends to encourage
10 financial institutions to develop innovative products that create
11 incentives to encourage consumer savings, particularly savings by low-
12 income consumers.

13 **Sec. 2.** RCW 9.46.0356 and 2000 c 228 s 1 are each amended to read
14 as follows:

15 (1) The legislature authorizes:

16 (a) A business to conduct a promotional contest of chance as
17 defined in this section, in this state, or partially in this state,

1 whereby the elements of prize and chance are present but in which the
2 element of consideration is not present;

3 (b) A financial institution, as defined in RCW 30.22.040, to
4 conduct a promotional contest of chance under this section in which a
5 drawing for a prize is held that includes only those persons who
6 deposited funds in a savings account, certificate of deposit, or any
7 other savings program of the financial institution as eligible prize
8 recipients. No such contest may be conducted, either wholly or
9 partially, by means of the internet.

10 (2) Promotional contests of chance under this section are not
11 gambling as defined in RCW 9.46.0237.

12 (3) Promotional contests of chance shall be conducted as
13 advertising and promotional undertakings solely for the purpose of
14 advertising or promoting the services, goods, wares, and merchandise of
15 a business.

16 (4) No person eligible to receive a prize in a promotional contest
17 of chance under subsection (1)(a) of this section may be required to:

18 (a) Pay any consideration to the promoter or operator of the
19 business in order to participate in the contest; or

20 (b) Purchase any service, goods, wares, merchandise, or anything of
21 value from the business, however, for other than contests entered
22 through a direct mail solicitation, the promoter or sponsor may give
23 additional entries or chances upon purchase of service, goods, wares,
24 or merchandise if the promoter or sponsor provides an alternate method
25 of entry requiring no consideration.

26 (5) No person eligible to receive a prize in a promotional contest
27 of chance under subsection (1)(b) of this section may be required to
28 pay any consideration other than the deposit of funds, or purchase any
29 service, goods, wares, merchandise, or anything of value from the
30 financial institution.

31 (6)(a) As used in this section, "consideration" means anything of
32 pecuniary value required to be paid to the promoter or sponsor in order
33 to participate in a promotional contest. Such things as visiting a
34 business location, placing or answering a telephone call, completing an
35 entry form or customer survey, or furnishing a stamped, self-addressed
36 envelope do not constitute consideration.

37 (b) Coupons or entry blanks obtained by purchase of a bona fide

1 newspaper or magazine or in a program sold in conjunction with a
2 regularly scheduled sporting event are not consideration.

3 ~~((+6))~~ (7) Unless authorized by the commission, equipment or
4 devices made for use in a gambling activity are prohibited from use in
5 a promotional contest.

6 ~~((+7))~~ (8) This section shall not be construed to permit
7 noncompliance with chapter 19.170 RCW, promotional advertising of
8 prizes, and chapter 19.86 RCW, unfair business practices.

9 **Sec. 3.** RCW 19.170.020 and 1991 c 227 s 2 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) "Person" means an individual, corporation, the state or its
14 subdivisions or agencies, business trust, estate, trust, partnership,
15 association, cooperative, or any other legal entity.

16 (2) "Prize" means a gift, award, travel coupon or certificate, free
17 item, or any other item offered in a promotion that is different and
18 distinct from the goods, service, or property promoted by a sponsor.
19 "Prize" does not include an item offered in a promotion where all of
20 the following elements are present:

21 (a) No element of chance is involved in obtaining the item offered
22 in the promotion;

23 (b) The recipient has the right to review the merchandise offered
24 for sale without obligation for at least seven days, and has a right to
25 obtain a full refund in thirty days for the return of undamaged
26 merchandise;

27 (c) The recipient may keep the item offered in the promotion
28 without obligation; and

29 (d) The recipient is not required to attend any sales presentation
30 or spend any sum in order to receive the item offered in the promotion.

31 (3) "Promoter" means a person conducting a promotion.

32 (4) "Promotion" means an advertising program, sweepstakes, contest,
33 direct giveaway, or solicitation directed to specific named
34 individuals, that includes the award of or chance to be awarded a
35 prize, but does not include a promotional contest of chance under RCW
36 9.46.0356(1)(b).

1 (5) "Offer" means a written notice delivered by hand, mail, or
2 other print medium offering goods, services, or property made as part
3 of a promotion to a person based on a representation that the person
4 has been awarded, or will be awarded, a prize.

5 (6) "Sponsor" means a person on whose behalf a promotion is
6 conducted to promote or advertise goods, services, or property of that
7 person.

8 (7) "Simulated check" means a document that is not currency or a
9 check, draft, note, bond, or other negotiable instrument but has the
10 visual characteristics thereof. "Simulated check" does not include a
11 nonnegotiable check, draft, note, or other instrument that is used for
12 soliciting orders for the purchase of checks, drafts, notes, bonds, or
13 other instruments and that is clearly marked as a sample, specimen, or
14 nonnegotiable.

15 (8) "Continuing obligation check" means a document that is a check,
16 draft, note, bond, or other negotiable instrument that, when cashed,
17 deposited, or otherwise used, imposes on the payee an obligation to
18 enter into a loan transaction. This definition does not include
19 checks, drafts, or other negotiable instruments that are used by
20 consumers to take advances on revolving loans, credit cards, or
21 revolving credit accounts.

22 (9) "Verifiable retail value" means:

23 (a) A price at which a promoter or sponsor can demonstrate that a
24 substantial number of prizes have been sold at retail in the local
25 market by a person other than the promoter or sponsor; or

26 (b) If the prize is not available for retail sale in the local
27 market, the retail fair market value in the local market of an item
28 substantially similar in each significant aspect, including size,
29 grade, quality, quantity, ingredients, and utility; or

30 (c) If the value of the prize cannot be established under (a) or
31 (b) of this subsection, then the prize may be valued at no more than
32 three times its cost to the promoter or sponsor.

33 (10) "Financial institution" means any bank, trust company, savings
34 bank, savings and loan association, credit union, industrial loan
35 company, or consumer finance lender subject to regulation by an
36 official agency of this state or the United States, and any subsidiary

1 or affiliate thereof.

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