
State Government & Tribal Affairs
Committee

SSB 5232

Brief Description: Authorizing prize-linked savings deposits.

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Kilmer, Hobbs, Carrell, Keiser and Kohl-Welles).

Brief Summary of Substitute Bill

- Allows a financial institution to conduct a drawing that includes only persons who deposited funds in a savings program.

Hearing Date: 3/9/11

Staff: Joan Elgee (786-7106).

Background:

To constitute "gambling" under the Gambling Act (Act), the elements of prize, chance, and consideration must be present. The Act specifically permits a business to conduct a promotional contest of chance as an advertising and promotional undertaking in which the element of consideration is not present. A promotional contest of chance may not require a person to pay any consideration to the contest promoter or purchase anything of value from the business. Visiting a location, completing a form or survey, obtaining a coupon by purchasing a newspaper, and other acts are defined not to be consideration. These contests are specifically stated not to be "gambling" under the Act.

Certain requirements relating to deceptive promotional advertising apply to promotions, such as sweepstakes and contests. The odds of being awarded a prize and other matters must be disclosed.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Some states, including Michigan, Rhode Island, and Maryland, allow financial institutions to offer prizes linked to savings accounts. In Michigan, for example, credit union members may open a year-long share certificate and earn one entry into a monthly prize drawing and one entry into an end of the year drawing for a grand prize.

Summary of Bill:

The Gambling Act is amended to allow a financial institution to conduct a particular type of promotional contest of chance. The permitted contest (contest) is a drawing for a prize in which only persons who deposited funds in a savings account, certificate of deposit, or any other savings program are eligible for prizes. The savings account, certificate of deposit, or savings program must pay interest equal to the interest paid by the financial institution for a comparable savings account, certificate of deposit, or savings program. No contest may be conducted, wholly or partially, by means of the Internet. A person may not be required to pay any consideration, other than the deposit of funds, or purchase anything of value from the financial institution. The contests authorized are not "gambling." A financial institution includes banks, trust companies, mutual savings banks, savings and loan associations, and credit unions.

The Director of the Department of Financial Institutions (Director) may prohibit a contest if it is: (1) likely to or does adversely affect the financial institution's safety and soundness; (2) administered in an unsafe and unsound or imprudent manner, or in a manner that is likely to or does result in actual or potential reputational harm to the financial institution; or (3) likely to or has misled the financial institution's members, depositors, or the general public. The Director may examine the conduct of a contest and exercise enforcement powers, and may issue a cease and desist order for a violation. Financial institutions must maintain records sufficient to facilitate an audit and must provide the records to the Director upon request.

Specific authority is given to credit unions, commercial banks, and mutual savings banks to conduct a contest. The authority for a commercial bank and a mutual savings bank to conduct a contest takes effect when the Director finds that a federal regulatory agency has interpreted federal law to permit a commercial bank or a mutual bank to conduct a promotional contest.

The deceptive promotional advertising requirements do not apply to financial institution savings deposit promotions.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.