

106TH CONGRESS
1ST SESSION

S. 301

To amend title 39, United States Code, relating to mailability, false representations, civil penalties, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 1999

Mr. CAMPBELL introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend title 39, United States Code, relating to mailability, false representations, civil penalties, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. HONESTY IN SWEEPSTAKES ACT OF 1999.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Honesty in Sweepstakes Act of 1999”.

6 (b) UNMAILABLE MATTER.—Section 3001 of title 39,
7 United States Code, is amended by—

8 (1) redesignating subsections (j) and (k) as
9 subsections (l) and (m), respectively; and

10 (2) inserting after subsection (i) the following:

1 “(j)(1) Matter otherwise legally acceptable in the
2 mails that—

3 “(A) constitutes a solicitation or offer in con-
4 nection with the sales promotion for a product or
5 service (including any sweepstakes) that includes the
6 chance or opportunity to win anything of value; and

7 “(B) contains words or symbols that suggest
8 that—

9 “(i) the recipient has or will receive any-
10 thing of value if that recipient has in fact not
11 won that thing of value; or

12 “(ii) the recipient is likely to receive any-
13 thing of value if statistically the recipient is not
14 likely to receive anything of value,

15 shall not be carried or delivered by mail, and may be dis-
16 posed of as the Postal Service directs, unless such matter
17 bears the notice described in paragraph (2).

18 “(2)(A) The notice referred to in paragraph (1) is
19 the following notice:

20 “(i) ‘This is a game of chance (or sweepstakes,
21 if applicable). You have not automatically won. Your
22 chances of winning are (inserting corresponding
23 mathematical probability for each prize shown). No
24 purchase is required either to win a prize or enhance
25 your chances of winning a prize.’, or a notice to the

1 same effect in words which the Postal Service may
2 prescribe; or

3 “(ii) a standardized Postal Service designed
4 warning label to the same effect as the Postal Serv-
5 ice may prescribe.

6 “(B) The notice described in subparagraph (A) shall
7 be in conspicuous and legible type in contrast by typog-
8 raphy, layout, or color with other printing on its face, in
9 accordance with regulations that the Postal Service shall
10 prescribe and be prominently displayed on the first page
11 of the enclosed printed material and on any other pages
12 enclosed.

13 “(C) If the matter described in paragraph (1) is an
14 envelope, the face of the envelope shall bear the notice de-
15 scribed in subparagraph (A).

16 “(D) If the matter described in paragraph (1) is an
17 order entry device, the face of the order entry device shall
18 bear the following notice:

19 “ ‘This is a game of chance (or sweepstakes, if
20 applicable). No purchase is required either to win a
21 prize or enhance your chances of winning a prize.’,
22 or a notice to the same effect in words which the
23 Postal Service may prescribe.

24 “(k) Matter otherwise legally acceptable in the mails
25 that constitutes a solicitation or offer in connection with

1 the sales promotion for a product or service that uses any
2 matter resembling a negotiable instrument shall not be
3 carried or delivered by mail, and may be disposed of as
4 the Postal Service directs, unless such matter bears on the
5 face of the negotiable instrument in conspicuous and leg-
6 ible type in contrast by typography, layout, or color with
7 other printing on its face, in accordance with regulations
8 which the Postal Service shall prescribe the following no-
9 tice: ‘This is not a check (or negotiable instrument). This
10 has no cash value.’, or a notice to the same effect in words
11 which the Postal Service may prescribe.”.

12 (c) TECHNICAL AMENDMENT.—Section 3005(a) of
13 title 39, United States Code, is amended by—

14 (1) striking “or” after “(h),” both places it ap-
15 pears; and

16 (2) inserting “, (j), or (k)” after “(i)”.

17 (d) PENALTIES.—

18 (1) IN GENERAL.—Section 3012 of title 39,
19 United States Code, is amended—

20 (A) by redesignating subsections (b), (c), and
21 (d), as subsections (c), (d), and (e), respectively;

22 (B) by inserting after subsection (a) the follow-
23 ing:

24 “(b) Any person who, through use of the mail, sends
25 any matter which is nonmailable under sections 3001 (a)

1 through (k), 3014, or 3015 of this title, shall be liable
2 to the United States for a civil penalty in accordance with
3 regulations the Postal Service shall prescribe. The civil
4 penalty shall not exceed \$50,000 for each mailing of less
5 than 50,000 pieces; \$100,000 for each mailing of 50,000
6 to 100,000 pieces; with an additional \$10,000 for each
7 additional 10,000 pieces above 100,000, not to exceed
8 \$2,000,000.”;

9 (C) in subsection (c)(1) and (2), as redesign-
10 nated, by inserting after “of subsection (a)” the fol-
11 lowing: “or subsection (b),”; and

12 (D) in subsection (d), as redesignated, by strik-
13 ing “Treasury of the United States” and inserting
14 “Postal Service Fund established by section 2003 of
15 this title”.

16 (2) ALLOCATION OF FUNDS.—It is the sense of Con-
17 gress that civil penalties collected through the enforcement
18 of the amendment made by paragraph (1) should be allo-
19 cated by the Postal Service to increase consumer aware-
20 ness of misleading solicitations received through the mail,
21 including releasing an annual listing of the top 10 offend-
22 ers of the Honesty in Sweepstakes Act of 1999.

23 (e) NO PREEMPTION.—Nothing in this Act shall pre-
24 empt any State law that regulates advertising or sales pro-

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- 1 motions or goods and services that includes the chance or
- 2 opportunity to win anything of value.

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