

CHAPTER 203

CONSUMER AND COMMERCIAL TRANSACTIONS

HOUSE BILL 00-1347

BY REPRESENTATIVES Spradley, Alexander, Allen, Coleman, Dean, Decker, Fairbank, George, Gotlieb, Hefley, Hoppe, Kaufman, Keller, Kester, King, Larson, Lawrence, Leyba, May, McElhany, McKay, Miller, Paschall, Smith, Stengel, Swenson, Takis, Tapia, Tochtrop, Veiga, Vigil, S. Williams, T. Williams, Witwer, Young, Bacon, Chavez, Gagliardi, Gordon, Hagedorn, Mace, Morrison, Plant, Ragsdale, Saliman, Tate, Tupa, Windels, and Zimmerman;
also SENATORS Perlmutter, Anderson, Arnold, Dyer, Epps, Evans, Feeley, Hernandez, Linkhart, Martinez, Musgrave, Nichol, Owen, Pascoe, Phillips, Powers, Reeves, Rupert, Tanner, Teck, Wattenberg, and Wham.

AN ACT

CONCERNING CONSUMER PROTECTION AGAINST SWEEPSTAKES AND CONTESTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 1 of title 6, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 8
SWEEPSTAKES AND CONTESTS**

6-1-801. Legislative finding, declaration, and intent. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT A VAST NUMBER OF SWEEPSTAKES AND CONTESTS HAVE BEEN AND ARE BEING DIRECTED TO COLORADO CONSUMERS; THAT COLORADO CONSUMERS MAY HAVE PAID MILLIONS OF DOLLARS TO PURCHASE GOODS OR SERVICES TO ENTER SWEEPSTAKES AND CONTESTS BASED ON REPRESENTATIONS CREATED BY THE SPONSORS OF THOSE SWEEPSTAKES AND CONTESTS; THAT THESE SWEEPSTAKES AND CONTESTS MAY BE TARGETED TO CERTAIN VULNERABLE COLORADO CONSUMERS; THAT THERE IS A COMPELLING NEED TO CURTAIL AND PREVENT THE MOST DECEPTIVE PRACTICES IN CONNECTION WITH THE PROMOTION OF SWEEPSTAKES AND CONTESTS; THAT THERE IS A COMPELLING NEED FOR MORE COMPLETE DISCLOSURE OF RULES AND OPERATION OF SWEEPSTAKES AND CONTESTS IN WHICH MONEY OR OTHER VALUABLE CONSIDERATION MAY BE SOLICITED; THAT PREVENTING THE DECEPTIVE PROMOTIONS OF SWEEPSTAKES AND CONTESTS IS A MATTER VITALLY AFFECTING THE PUBLIC INTEREST; AND, THEREFORE, THAT STATUTORY REGULATION OF SWEEPSTAKES AND CONTESTS IS NECESSARY TO THE GENERAL WELFARE OF THE PUBLIC.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO REQUIRE THAT COLORADO CONSUMERS BE PROVIDED WITH ALL RELEVANT INFORMATION NECESSARY TO MAKE AN INFORMED DECISION CONCERNING SWEEPSTAKES AND CONTESTS. IT IS ALSO THE INTENT OF THE GENERAL ASSEMBLY TO PROHIBIT MISLEADING AND DECEPTIVE PRIZE PROMOTIONS. THE TERMS OF THIS PART 8 SHALL BE CONSTRUED LIBERALLY IN ORDER TO ACHIEVE THIS PURPOSE.

6-1-802. Definitions. AS USED IN THIS PART 8, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CONTEST" MEANS ANY GAME, PUZZLE, COMPETITION, OR PLAN THAT HOLDS OUT OR OFFERS TO PROSPECTIVE PARTICIPANTS THE OPPORTUNITY TO RECEIVE OR COMPETE FOR GIFTS, PRIZES, OR GRATUITIES AS DETERMINED BY SKILL OR ANY COMBINATION OF CHANCE AND SKILL; EXCEPT THAT "CONTEST" SHALL NOT BE CONSTRUED TO INCLUDE ANY ACTIVITY OF LICENSEES REGULATED UNDER ARTICLE 9 OR ARTICLE 47.1 OF TITLE 12, C.R.S., OR PART 2 OF ARTICLE 35 OF TITLE 24, C.R.S.

(2) "NO PURCHASE NECESSARY MESSAGE" MEANS THE FOLLOWING STATEMENT, SET APART AND IN BOLD-FACED TYPE, AND AT LEAST TEN-POINT TYPE: "NO PURCHASE OR PAYMENT OF ANY KIND IS NECESSARY TO ENTER OR WIN THIS [SWEEPSTAKES OR CONTEST]."

(3) "OFFICIAL RULES" MEANS THE FORMAL PRINTED STATEMENT OF THE RULES FOR THE SWEEPSTAKES OR CONTEST, WHICH STATEMENT SHALL BE PRINTED IN CONTRASTING TYPE FACE AT LEAST TEN-POINT TYPE.

(4) "PRIZE" MEANS CASH OR AN ITEM OR SERVICE OF MONETARY VALUE THAT IS OFFERED OR AWARDED TO A PERSON IN A REAL OR PURPORTED SWEEPSTAKES OR CONTEST.

(5) "PRIZE NOTICE" MEANS A WRITTEN NOTICE, OTHER THAN AN ADVERTISEMENT APPEARING IN A MAGAZINE OR NEWSPAPER OF GENERAL CIRCULATION, DELIVERED BY THE UNITED STATES POSTAL SERVICE OR BY A PRIVATE CARRIER, THAT IS OR CONTAINS A REPRESENTATION THAT THE RECIPIENT WILL RECEIVE, OR MAY BE OR MAY BECOME ELIGIBLE TO RECEIVE, A PRIZE.

(6) "REPRESENT" AND "REPRESENTATION" INCLUDES EXPRESS STATEMENTS AND THE IMPLICATIONS AND INFERENCES THAT WOULD BE DRAWN FROM THOSE STATEMENTS, TAKING INTO ACCOUNT THE CONTEXT IN WHICH THE REPRESENTATION IS MADE, INCLUDING, BUT NOT LIMITED TO, EMPHASIS, FONT, SIZE, COLOR, LOCATION, AND PRESENTATION OF THE REPRESENTATION AND ANY QUALIFYING LANGUAGE. IF THE REPRESENTATION IS MADE ON OR VISIBLE THROUGH A MAILING ENVELOPE, THE CONTEXT IN WHICH THE REPRESENTATION IS TO BE CONSIDERED, INCLUDING ANY QUALIFYING LANGUAGE, SHALL BE LIMITED TO THAT WHICH IS VISIBLE WITHOUT OPENING THE MAILING ENVELOPE.

(7) "RETAIL VALUE" OF A PRIZE MEANS:

(a) A PRICE AT WHICH THE SPONSOR CAN DEMONSTRATE THAT A SUBSTANTIAL NUMBER OF THE PRIZES OR SUBSTANTIALLY SIMILAR ITEMS HAVE BEEN SOLD TO THE PUBLIC IN THIS STATE BY SOMEONE OTHER THAN THE SPONSOR DURING THE PRECEDING YEAR; OR

(b) IF THE SPONSOR IS UNABLE TO SATISFY THE REQUIREMENT IN PARAGRAPH (a) OF THIS SUBSECTION (7), THEN THE RETAIL VALUE IS NO MORE THAN ONE AND ONE-HALF TIMES THE AMOUNT THAT THE SPONSOR PAID OR WOULD PAY FOR THE PRIZE IN A BONA FIDE PURCHASE FROM A SELLER UNAFFILIATED WITH THE SPONSOR.

(8) "SPECIALLY SELECTED" MEANS A REPRESENTATION THAT A PERSON IS A WINNER, A FINALIST, IN FIRST PLACE OR TIED FOR FIRST PLACE, OR OTHERWISE AMONG A LIMITED GROUP OF PERSONS WITH AN ENHANCED LIKELIHOOD OF RECEIVING A PRIZE.

(9) "SPONSOR" MEANS A PERSON WHO OFFERS, BY MEANS OF A PRIZE NOTICE, A PRIZE TO ANOTHER PERSON IN THIS STATE IN CONJUNCTION WITH ANY REAL OR PURPORTED SWEEPSTAKES OR CONTEST THAT REQUIRES OR ALLOWS, OR CREATES THE IMPRESSION OF REQUIRING OR ALLOWING, THE PERSON TO PURCHASE ANY GOODS OR SERVICES OR PAY ANY MONEY AS A CONDITION OF RECEIVING, OR IN CONJUNCTION WITH ALLOWING THE PERSON TO RECEIVE, USE, COMPETE FOR, OR OBTAIN A PRIZE OR INFORMATION ABOUT A PRIZE.

(10) "SWEEPSTAKES" MEANS ANY COMPETITION, GIVEAWAY, DRAWING, PLAN, OR OTHER SELECTION PROCESS OR OTHER ENTERPRISE OR PROMOTION IN WHICH ANYTHING OF VALUE IS AWARDED TO PARTICIPANTS BY CHANCE OR RANDOM SELECTION THAT IS NOT OTHERWISE UNLAWFUL UNDER OTHER PROVISIONS OF LAW; EXCEPT THAT "SWEEPSTAKES" SHALL NOT BE CONSTRUED TO INCLUDE ANY ACTIVITY OF LICENSEES REGULATED UNDER ARTICLE 9 OR ARTICLE 47.1 OF TITLE 12, C.R.S., OR PART 2 OF ARTICLE 35 OF TITLE 24, C.R.S.

6-1-803. Prohibited practices and required disclosures. (1) NO SPONSOR SHALL REQUIRE A PERSON TO PAY THE SPONSOR MONEY OR ANY OTHER CONSIDERATION AS A CONDITION OF AWARDED THE PERSON A PRIZE, OR AS A CONDITION OF ALLOWING THE PERSON TO RECEIVE, USE, COMPETE FOR, OR OBTAIN A PRIZE OR INFORMATION ABOUT A PRIZE.

(2) NO SPONSOR SHALL REPRESENT THAT A PERSON HAS WON OR UNCONDITIONALLY WILL BE THE WINNER OF A PRIZE OR USE LANGUAGE THAT MAY LEAD A PERSON TO BELIEVE HE OR SHE HAS WON A PRIZE, UNLESS ALL OF THE FOLLOWING CONDITIONS ARE MET:

(a) THE PERSON SHALL BE GIVEN THE PRIZE WITHOUT OBLIGATION;

(b) THE PERSON SHALL BE NOTIFIED AT NO EXPENSE TO SUCH PERSON WITHIN FIFTEEN DAYS OF WINNING A PRIZE; AND

(c) THE REPRESENTATION IS NOT FALSE, DECEPTIVE, OR MISLEADING.

(3) IF A SPONSOR OFFERS ONE OR MORE ITEMS OF THE SAME OR SUBSTANTIALLY THE SAME VALUE TO ALL OR SUBSTANTIALLY ALL OF THE RECIPIENTS OF A PRIZE NOTICE, THE SPONSOR SHALL NOT:

(a) REPRESENT THAT SUCH ITEMS ARE PRIZES OR THAT THE PROCESS BY WHICH SUCH ITEMS ARE TO BE DISTRIBUTED IS A SWEEPSTAKES OR CONTEST, OR OTHERWISE REPRESENT THAT SUCH PROCESS INVOLVES A DISTRIBUTION BY CHANCE; OR

(b) REPRESENT THAT THE RECIPIENT IS OR HAS BEEN SPECIALLY SELECTED UNLESS IT IS TRUE.

(4) NO SPONSOR SHALL REPRESENT THAT A PERSON HAS BEEN SPECIALLY SELECTED IN CONNECTION WITH A SWEEPSTAKES OR CONTEST UNLESS IT IS TRUE.

(5) NO SPONSOR SHALL REPRESENT THAT A PERSON MAY BE OR MAY BECOME A WINNER OF A PRIZE, CHARACTERIZE THE PERSON AS A POSSIBLE WINNER OF A PRIZE, OR REPRESENT THAT THE PERSON WILL, UPON THE SATISFACTION OF SOME CONDITION OR THE OCCURRENCE OF SOME EVENT OR OTHER CONTINGENCY, BECOME THE WINNER OF A PRIZE, UNLESS EACH OF THE FOLLOWING IS CLEARLY AND CONSPICUOUSLY DISCLOSED:

(a) THE MATERIAL CONDITIONS NECESSARY TO MAKE THE REPRESENTATION TRUTHFUL AND NOT MISLEADING, INCLUDING BUT NOT LIMITED TO THE CONDITIONS THAT MUST BE SATISFIED IN ORDER FOR THE PERSON TO BE DETERMINED AS THE WINNER. ALL SUCH CONDITIONS SHALL BE:

(I) PRESENTED IN SUCH A MANNER THAT THEY ARE AN INTEGRAL PART OF THE REPRESENTATION AND NOT SEPARATED FROM THE REMAINDER OF THE REPRESENTATION BY INTERVENING WORDS, GRAPHICS, COLORS, OR EXCESSIVE BLANK SPACE;

(II) MADE IN TERMS, SYNTAX, AND GRAMMAR THAT ARE AS SIMPLE AND EASY TO UNDERSTAND AS THOSE USED IN THE REPRESENTATION; AND

(III) PRESENTED IN SUCH A MANNER THAT THEY APPEAR IN THE SAME TYPE SIZE AND IN THE SAME TYPE FACE, COLOR, STYLE, AND FONT AS THE REMAINDER OF THE REPRESENTATION.

(b) THE FACT THAT THE PERSON HAS NOT YET WON;

(c) THE NO PURCHASE NECESSARY MESSAGE;

(d) THE RETAIL VALUE OF EACH PRIZE;

(e) THE ESTIMATED ODDS OF RECEIVING EACH PRIZE PURSUANT TO PARAGRAPH (c) OF SUBSECTION (6) OF THIS SECTION;

(f) THE TRUE NAME OR NAMES OF THE SPONSOR, THE ADDRESS OF THE SPONSOR'S ACTUAL PRINCIPAL PLACE OF BUSINESS, AND THE ADDRESS AT WHICH THE SPONSOR MAY BE CONTACTED;

(g) IF RECEIPT OF A PRIZE IS SUBJECT TO A RESTRICTION, A STATEMENT THAT A RESTRICTION APPLIES AND A DESCRIPTION OF THE RESTRICTION;

(h) THE DEADLINE FOR SUBMISSION OF AN ENTRY TO BE ELIGIBLE TO WIN EACH PRIZE;

(i) IF A SPONSOR REPRESENTS THAT THE PERSON IS OR HAS BEEN SPECIALLY SELECTED, AND IF THE REPRESENTATION IS NOT PROHIBITED UNDER SUBSECTIONS (3) AND (4) OF THIS SECTION, THEN IMMEDIATELY ADJACENT TO SUCH REPRESENTATION, IN THE SAME TYPE SIZE AND BOLDNESS AS THE REPRESENTATION, A STATEMENT OF THE MAXIMUM NUMBER OF PERSONS IN THE GROUP OR PURPORTED GROUP OF PERSONS WITH THIS ENHANCED LIKELIHOOD OF RECEIVING A PRIZE;

(j) THE OFFICIAL RULES FOR THE SWEEPSTAKES OR CONTEST.

(6) UNLESS OTHERWISE PROVIDED BY SUBSECTION (5) OF THIS SECTION, THE INFORMATION REQUIRED BY SUBSECTION (5) OF THIS SECTION SHALL BE PRESENTED IN THE FOLLOWING FORM:

(a) THE INFORMATION REQUIRED BY PARAGRAPHS (b) TO (h) OF SUBSECTION (5) OF THIS SECTION MAY BE PRESENTED EITHER:

(I) IMMEDIATELY ADJACENT TO THE FIRST IDENTIFICATION OF THE PRIZE TO WHICH IT REFERS AND IN THE SAME TYPE SIZE AND BOLDNESS AS THE REFERENCE TO THE PRIZE; OR

(II) IN A SEPARATE SECTION OF OFFICIAL RULES WITH A SECTION ENTITLED "CONSUMER DISCLOSURE", WHICH TITLE SHALL BE PRINTED IN NO LESS THAN TWELVE-POINT, BOLD-FACED TYPE, WHICH SECTION SHALL CONTAIN ONLY A DESCRIPTION OF THE PRIZE, AND WHICH TEXT SHALL BE PRINTED IN NO LESS THAN TEN-POINT TYPE.

(b) IN ADDITION TO THE OTHER REQUIREMENTS OF THIS SUBSECTION (6), THE NO PURCHASE NECESSARY MESSAGE SHALL BE PRESENTED IN THE OFFICIAL RULES AND, IF THE OFFICIAL RULES DO NOT APPEAR THEREON, ON ANY DEVICE BY WHICH A PERSON ENTERS A SWEEPSTAKES OR CONTEST OR PURCHASES ANY GOODS OR SERVICES OR PAYS ANY MONEY IN CONNECTION WITH A SWEEPSTAKES OR CONTEST. THE NO PURCHASE NECESSARY MESSAGE INCLUDED IN THE OFFICIAL RULES SHALL BE SET OUT IN A SEPARATE PARAGRAPH IN THE OFFICIAL RULES AND BE PRINTED IN CAPITAL LETTERS IN CONTRASTING TYPE FACE NOT SMALLER THAN THE LARGEST TYPE FACE USED IN THE TEXT OF THE OFFICIAL RULES. IF A PERSON IS REQUIRED OR ALLOWED TO ENTER THE SWEEPSTAKES OR CONTEST, OR PURCHASE ANY GOODS OR SERVICES OR PAY ANY MONEY IN CONNECTION WITH A SWEEPSTAKES OR CONTEST, THROUGH A TELEPHONE CALL, THE NO PURCHASE NECESSARY MESSAGE MUST BE READ TO THE PERSON DURING THE TELEPHONE CALL PRIOR TO ACCEPTING THE ENTRY, PURCHASE, OR PAYMENT.

(c) THE STATEMENT OF THE ODDS OF RECEIVING EACH PRIZE SHALL INCLUDE, FOR EACH PRIZE, THE TOTAL NUMBER OF PRIZES TO BE GIVEN AWAY AND THE ESTIMATED ODDS OF WINNING EACH PRIZE BASED UPON THE FOLLOWING FORMULA: " _____ [NUMBER OF PRIZES] OUT OF _____ PRIZE NOTICES DISTRIBUTED".

(d) ALL DOLLAR VALUES SHALL BE STATED IN ARABIC NUMERALS AND BE PRECEDED BY A DOLLAR SIGN.

(7) NO SPONSOR SHALL SUBJECT SWEEPSTAKES OR CONTEST ENTRIES NOT ACCOMPANIED BY AN ORDER FOR PRODUCTS OR SERVICES TO ANY DISABILITY OR DISADVANTAGE IN THE WINNER SELECTION PROCESS TO WHICH AN ENTRY ACCOMPANIED BY AN ORDER FOR PRODUCTS OR SERVICES WOULD NOT BE SUBJECT.

(8) NO SPONSOR SHALL REPRESENT THAT AN ENTRY IN A SWEEPSTAKES OR CONTEST ACCOMPANIED BY AN ORDER FOR PRODUCTS OR SERVICES WILL BE ELIGIBLE TO RECEIVE ADDITIONAL PRIZES OR BE MORE LIKELY TO WIN THAN AN ENTRY NOT ACCOMPANIED BY AN ORDER FOR PRODUCTS OR SERVICES, OR THAT AN ENTRY NOT ACCOMPANIED BY AN ORDER FOR PRODUCTS OR SERVICES WILL HAVE A REDUCED CHANCE OF WINNING A PRIZE IN THE SWEEPSTAKES OR CONTEST.

(9) NO SPONSOR SHALL REPRESENT THAT A PERSON WILL HAVE AN INCREASED CHANCE OF RECEIVING A PRIZE BY MAKING MULTIPLE OR DUPLICATE PURCHASES, PAYMENTS, OR DONATIONS, OR BY ENTERING A SWEEPSTAKES OR CONTEST MORE THAN ONE TIME.

(10) NO SPONSOR SHALL REPRESENT THAT A PERSON IS BEING NOTIFIED A SECOND OR FINAL TIME OF THE OPPORTUNITY TO RECEIVE OR COMPETE FOR A PRIZE, UNLESS THE REPRESENTATION IS TRUE.

(11) NO SPONSOR SHALL REPRESENT THAT A PRIZE NOTICE IS URGENT OR OTHERWISE CONVEY AN IMPRESSION OF URGENCY BY USE OF DESCRIPTION, NARRATIVE COPY, PHRASING ON A MAILING ENVELOPE, OR SIMILAR METHOD, UNLESS THERE IS A LIMITED TIME PERIOD IN WHICH THE RECIPIENT MUST TAKE SOME ACTION TO CLAIM OR BE ELIGIBLE TO RECEIVE A PRIZE, AND THE DATE BY WHICH SUCH ACTION IS REQUIRED APPEARS IMMEDIATELY ADJACENT TO EACH REPRESENTATION OF URGENCY IN THE SAME TYPE SIZE AND BOLDNESS AS EACH REPRESENTATION OF URGENCY.

(12) NO SPONSOR SHALL DELIVER, OR CAUSE TO BE DELIVERED, A PRIZE NOTICE WHICH IS IN THE FORM OF, OR A PRIZE NOTICE WHICH INCLUDES, A DOCUMENT WHICH SIMULATES A BOND, CHECK, OR OTHER NEGOTIABLE INSTRUMENT, UNLESS THAT DOCUMENT CONTAINS A STATEMENT THAT SUCH DOCUMENT IS NONNEGOTIABLE AND HAS NO CASH VALUE.

(13) NO SPONSOR SHALL DELIVER, OR CAUSE TO BE DELIVERED, A PRIZE NOTICE WHICH:

(a) SIMULATES OR FALSELY REPRESENTS THAT IT IS A DOCUMENT AUTHORIZED, ISSUED, OR APPROVED BY ANY COURT, OFFICIAL, OR AGENCY OF THE UNITED STATES OR ANY STATE OR BY ANY LAWYER, LAW FIRM, OR INSURANCE OR BROKERAGE COMPANY; OR

(b) CREATES A FALSE IMPRESSION AS TO ITS SOURCE, AUTHORIZATION, OR APPROVAL.

(14) NO SPONSOR SHALL REPRESENT THAT A PRIZE NOTICE IS BEING DELIVERED BY ANY METHOD OTHER THAN BULK MAIL UNLESS THAT IS THE CASE OR OTHERWISE MISREPRESENT THE MANNER IN WHICH THE PRIZE NOTICE IS DELIVERED.

(15) IN THE OPERATION OF A SWEEPSTAKES OR CONTEST, NO SPONSOR SHALL:

(a) MISREPRESENT IN ANY MANNER THE LIKELIHOOD OR ODDS OF WINNING ANY PRIZE OR MISREPRESENT IN ANY MANNER THE RULES, TERMS, OR CONDITIONS OF PARTICIPATION IN A SWEEPSTAKES OR CONTEST;

(b) FAIL TO CLEARLY AND CONSPICUOUSLY DISCLOSE WITH ALL CONTEST PUZZLES AND GAMES ALL OF THE FOLLOWING IN THE RULES:

(I) THE NUMBER OF ROUNDS OR LEVELS WHICH MAY BE NECESSARY TO COMPLETE THE CONTEST AND DETERMINE WINNERS;

(II) WHETHER FUTURE PUZZLES OR GAMES, IF ANY, OR TIE BREAKERS, IF ANY, WILL BE SIGNIFICANTLY MORE DIFFICULT THAN THE INITIAL PUZZLE;

(III) THE DATE OR DATES ON OR BEFORE WHICH THE CONTEST WILL TERMINATE AND UPON WHICH ALL PRIZES WILL BE AWARDED;

(IV) THE METHOD OF DETERMINING PRIZEWINNERS IF A TIE REMAINS AFTER THE LAST TIE BREAKER PUZZLE IS COMPLETED; AND

(V) ALL RULES, REGULATIONS, TERMS, AND CONDITIONS OF THE CONTEST.

(16) THE PROHIBITED PRACTICES LISTED IN THIS SECTION ARE IN ADDITION TO AND DO NOT LIMIT THE TYPES OF UNFAIR TRADE PRACTICES ACTIONABLE AT COMMON LAW OR UNDER OTHER CIVIL AND CRIMINAL STATUTES OF THIS STATE.

6-1-804. Exemptions. (1) THE REQUIREMENTS OF SECTION 6-1-803 (5) AND (6) SHALL NOT APPLY TO SOLICITATIONS OR REPRESENTATIONS MADE IN CONNECTION WITH THE SALE OF GOODS:

(a) 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; OR

(b) FROM A MEMBERSHIP GROUP OR CLUB SELLING BOOKS, PERIODICALS, RECORDINGS, VIDEOCASSETTES AND SIMILAR ITEMS THAT IS REGULATED BY THE FEDERAL TRADE COMMISSION PURSUANT TO 16 CFR 425.1 CONCERNING THE USE OF NEGATIVE OPTION PLANS BY SELLERS IN COMMERCE.

SECTION 2. 6-1-105 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

6-1-105. Deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person:

(rr) VIOLATES THE PROVISIONS OF PART 8 OF THIS ARTICLE.

SECTION 3. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to representations regarding sweepstakes and contests made on or after the applicable effective date of this act.

Approved: May 24, 2000