

106TH CONGRESS
1ST SESSION

H. R. 2678

To amend title 39, United States Code, to provide for the establishment of a notification system under which individuals may elect not to receive mailings related to skill contests or sweepstakes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 1999

Mr. McCOLLUM introduced the following bill; which was referred to the
Committee on Government Reform

A BILL

To amend title 39, United States Code, to provide for the establishment of a notification system under which individuals may elect not to receive mailings related to skill contests or sweepstakes, 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. REQUIREMENTS OF PROMOTERS OF SKILL**
4 **CONTESTS OR SWEEPSTAKES MAILINGS.**

5 (a) IN GENERAL.—Chapter 30 of title 39, United
6 States Code, is amended by adding after section 3015 the
7 following:

1 **“§ 3016. Nonmailable skill contests or sweepstakes**
2 **matter; notification to prohibit mailings**

3 “(a) DEFINITIONS.—In this section, the term—

4 “(1) ‘promoter’ means any person who—

5 “(A) originates and mails any skill contest
6 or sweepstakes; or

7 “(B) originates and causes to be mailed
8 any skill contest or sweepstakes;

9 “(2) ‘removal request’ means a request stating
10 that an individual elects to have the name and ad-
11 dress of such individual excluded from any list used
12 by a promoter for mailing skill contests or sweep-
13 stakes;

14 “(3) ‘skill contest’ means a puzzle, game, com-
15 petition, or other contest in which—

16 “(A) a prize is awarded or offered;

17 “(B) the outcome depends predominately
18 on the skill of the contestant; and

19 “(C) a purchase, payment, or donation is
20 required or implied to be required to enter the
21 contest; and

22 “(4) ‘sweepstakes’ means a game of chance for
23 which no consideration is required to enter.

24 “(b) NONMAILABLE MATTER.—

1 “(1) IN GENERAL.—Matter otherwise legally ac-
2 ceptable in the mails described under paragraph
3 (2)—

4 “(A) is nonmailable matter;

5 “(B) shall not be carried or delivered by
6 mail; and

7 “(C) shall be disposed of as the Postal
8 Service directs.

9 “(2) NONMAILABLE MATTER DESCRIBED.—
10 Matter that is nonmailable matter referred to under
11 paragraph (1) is any matter that—

12 “(A) is a skill contest or sweepstakes; and

13 “(B)(i) is addressed to an individual who
14 made an election to be excluded from lists
15 under subsection (d); or

16 “(ii) does not comply with subsection
17 (c)(1).

18 “(c) REQUIREMENTS OF PROMOTERS.—

19 “(1) NOTICE TO INDIVIDUALS.—Any promoter
20 who mails a skill contest or sweepstakes shall pro-
21 vide with each mailing a statement that—

22 “(A) is clearly and conspicuously displayed;

23 “(B) includes the address or toll-free tele-
24 phone number of the notification system estab-
25 lished under paragraph (2); and

1 “(C) states that the notification system
2 may be used to prohibit the mailing of all skill
3 contests or sweepstakes by that promoter to
4 such individual.

5 “(2) NOTIFICATION SYSTEM.—Any promoter
6 that mails or causes to be mailed a skill contest or
7 sweepstakes shall establish and maintain a notifica-
8 tion system that provides for any individual (or
9 other duly authorized person) to notify the system of
10 the individual’s election to have the name and ad-
11 dress of the individual excluded from all lists of
12 names and addresses used by that promoter to mail
13 any skill contest or sweepstakes.

14 “(d) ELECTION TO BE EXCLUDED FROM LISTS.—

15 “(1) IN GENERAL.—An individual (or other
16 duly authorized person) may elect to exclude the
17 name and address of that individual from all lists of
18 names and addresses used by a promoter of skill
19 contests or sweepstakes by submitting a removal re-
20 quest to the notification system established under
21 subsection (c).

22 “(2) RESPONSE AFTER SUBMITTING REMOVAL
23 REQUEST TO THE NOTIFICATION SYSTEM.—Not
24 later than 35 calendar days after a promoter re-
25 ceives a removal request pursuant to an election

1 under paragraph (1), the promoter shall exclude the
2 individual's name and address from all lists of
3 names and addresses used by that promoter to select
4 recipients for any skill contest or sweepstakes.

5 “(3) EFFECTIVENESS OF ELECTION.—An elec-
6 tion under paragraph (1) shall remain in effect, un-
7 less an individual (or other duly authorized person)
8 notifies the promoter in writing that such
9 individual—

10 “(A) has changed the election; and

11 “(B) elects to receive skill contest or
12 sweepstakes mailings from that promoter.

13 “(e) PROMOTER NONLIABILITY.—A promoter shall
14 not be subject to civil liability for the exclusion of an indi-
15 vidual's name or address from any list maintained by that
16 promoter for mailing skill contests or sweepstakes, if—

17 “(1) a removal request is received by the pro-
18 moter's notification system; and

19 “(2) the promoter has a good faith belief that
20 the request is from—

21 “(A) the individual whose name and ad-
22 dress is to be excluded; or

23 “(B) another duly authorized person.

24 “(f) PROHIBITION ON COMMERCIAL USE OF LISTS.—

25 “(1) IN GENERAL.—

1 “(A) PROHIBITION.—No person may pro-
2 vide any information (including the sale or rent-
3 al of any name or address) derived from a list
4 described under subparagraph (B) to another
5 person for commercial use.

6 “(B) LISTS.—A list referred to under sub-
7 paragraph (A) is any list of names and address-
8 es (or other related information) compiled from
9 individuals who exercise an election under sub-
10 section (d).

11 “(2) CIVIL PENALTY.—Any person who violates
12 paragraph (1) shall be assessed a civil penalty by the
13 Postal Service not to exceed \$2,000,000 per viola-
14 tion.

15 “(g) CIVIL PENALTIES.—

16 “(1) IN GENERAL.—Any promoter—

17 “(A) who recklessly mails nonmailable
18 matter in violation of subsection (b) shall be lia-
19 ble to the United States in an amount of
20 \$10,000 per violation for each mailing to an in-
21 dividual of nonmailable matter; or

22 “(B) who fails to comply with the require-
23 ments of subsection (c)(2) shall be liable to the
24 United States.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.