

106TH CONGRESS
1ST SESSION

S. 975

To amend chapter 30 of title 39, United States Code, to provide for a uniform notification system under which individuals may elect not to receive mailings relating to skill contests or sweepstakes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 6, 1999

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

A BILL

To amend chapter 30 of title 39, United States Code, to provide for a uniform notification system under which individuals may elect not to receive mailings relating 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. SHORT TITLE.**

4 This Act may be cited as the “Sweepstakes Toll-Free
5 Option Protection Act of 1999”.

1 **SEC. 2. REQUIREMENTS OF PROMOTERS OF SKILL CON-**
 2 **TESTS OR SWEEPSTAKES MAILINGS.**

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

6 **“§ 3016. Nonmailable skill contests or sweepstakes**
 7 **matter; notification to prohibit mailings**

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

9 “(1) ‘promoter’ means any person who origi-
 10 nates and causes to be mailed any skill contest or
 11 sweepstakes;

12 “(2) ‘removal request form’ means a written
 13 form stating that an individual—

14 “(A) does not consent to the name and ad-
 15 dress of such individual being included on any
 16 list used by a promoter for mailing skill con-
 17 tests or sweepstakes; and

18 “(B) elects to have such name and address
 19 excluded from any such list;

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

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

23 “(B) the outcome depends predominately
 24 on the skill of the contestant; and

1 “(C) a purchase, payment, or donation is
 2 required or implied to be required to enter the
 3 contest; and

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

6 “(b) NONMAILABLE MATTER.—

7 “(1) IN GENERAL.—Matter otherwise legally ac-
 8 ceptable in the mails described under paragraph
 9 (2)—

10 “(A) is nonmailable matter;

11 “(B) shall not be carried or delivered by
 12 mail; and

13 “(C) shall be disposed of as the Postal
 14 Service directs.

15 “(2) NONMAILABLE MATTER DESCRIBED.—
 16 Matter that is nonmailable matter referred to under
 17 paragraph (1) is any matter that—

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

19 “(B) is addressed to an individual who
 20 made an election to be excluded from lists
 21 under subsection (e).

22 “(c) REQUIREMENTS OF PROMOTERS.—

23 “(1) NOTICE TO INDIVIDUALS.—Any promoter
 24 who mails a skill contest or sweepstakes shall pro-

1 vide with each mailing a clear and conspicuous state-
2 ment that—

3 “(A) includes the address and toll-free tele-
4 phone number of the notification system estab-
5 lished under paragraph (2); and

6 “(B) states the system can be used to pro-
7 hibit the mailing of any skill contest or sweep-
8 stakes to such individual.

9 “(2) NOTIFICATION SYSTEM.—Any promoter
10 that mails a skill contest or sweepstakes shall par-
11 ticipate in the establishment and maintenance of a
12 uniform notification system that provides for any in-
13 dividual (or other duly authorized person) to notify
14 the system of the individual’s election to have the
15 name and address of the individual excluded from
16 any list of names and addresses used by any pro-
17 moter to mail any skill contest or sweepstakes; and
18 “(d) NOTIFICATION SYSTEM.—

19 “(1) CALL TO TOLL-FREE NUMBER.—If an in-
20 dividual contacts the notification system through use
21 of the toll-free telephone number published under
22 subsection (c)(2), the system shall—

23 “(A) inform the individual of the informa-
24 tion described under subsection (c)(1)(B);

1 “(B) inform the individual that a removal
2 request form shall be mailed within such 7 busi-
3 ness days; and

4 “(C) inform the individual that the election
5 to prohibit mailings of skill contests or sweep-
6 stakes to that individual shall take effect 30
7 business days after receipt by the system of the
8 signed removal request form or other signed
9 written request by the individual.

10 “(2) REMOVAL REQUEST FORM.—Upon request
11 of the individual, the system shall mail a removal re-
12 quest form to the individual not later than 7 busi-
13 ness days after the date of the telephone commu-
14 nication. A removal request form shall contain—

15 “(A) a clear, concise statement to exclude
16 a name and address from the applicable mailing
17 lists; and

18 “(B) no matter other than the form and
19 the address of the notification system.

20 “(e) ELECTION TO BE EXCLUDED FROM LISTS.—

21 “(1) IN GENERAL.—An individual may elect to
22 exclude the name and address of such individual
23 from all mailing lists used by promoters of skill con-
24 tests or sweepstakes by mailing a removal request

1 form to the notification system established under
 2 subsection (c).

3 “(2) RESPONSE AFTER MAILING FORM TO THE
 4 NOTIFICATION SYSTEM.—Not later than 30 business
 5 days after receipt of a removal request form, all pro-
 6 moters who maintain lists containing the individual’s
 7 name or address for purposes of mailing skill con-
 8 tests or sweepstakes shall exclude such individual’s
 9 name and address from all such lists.

10 “(3) EFFECTIVENESS OF ELECTION.—An elec-
 11 tion under paragraph (1) shall—

12 “(A) be effective with respect to every pro-
 13 moter; and

14 “(B) remain in effect, unless an individual
 15 notifies the system in writing that such
 16 individual—

17 “(i) has changed the election; and

18 “(ii) elects to receive skill contest or
 19 sweepstakes mailings.

20 “(f) PROMOTER NONLIABILITY.—A promoter, or any
 21 other person maintaining the notification system estab-
 22 lished under this section, shall not have civil liability for
 23 the exclusion of an individual’s name or address from any
 24 mailing list maintained by a promoter for mailing skill
 25 contests or sweepstakes, if—

1 “(1) a request for removal form is received by
2 the notification system; and

3 “(2) the promoter or person maintaining the
4 system has a good faith belief that the request is
5 from—

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

8 “(B) another duly authorized person.

9 “(g) PROHIBITION ON COMMERCIAL USE OF
10 LISTS.—

11 “(1) IN GENERAL.—

12 “(A) PROHIBITION.—No person may pro-
13 vide any information (including the sale or rent-
14 al of any name or address) in a list described
15 under subparagraph (B) to another person for
16 commercial use.

17 “(B) LISTS.—A list referred to under sub-
18 paragraph (A) is any list of names and address-
19 es (or other related information) used, main-
20 tained, or created by the system established by
21 this Act.

22 “(2) CIVIL PENALTY.—Any person who violates
23 paragraph (1) shall be assessed a civil penalty by the
24 Postal Service.

25 “(h) CIVIL PENALTIES.—

1 “(1) IN GENERAL.—Any promoter—

2 “(A) who recklessly mails nonmailable
3 matter in violation of subsection (b) shall be lia-
4 ble to the United States in an amount of
5 \$10,000 per violation for each mailing of non-
6 mailable matter; or

7 “(B) who fails to substantially comply with
8 the requirements of subsection (c)(2) shall be
9 liable to the United States.

10 “(2) ENFORCEMENT.—The Postal Service shall
11 assess civil penalties under this section.”.

12 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
13 The table of sections for chapter 30 of title 39, United
14 States Code, is amended by adding after the item relating
15 to section 3015 the following:

“3016. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings.”.

16 **SEC. 3. STATE LAW NOT PREEMPTED.**

17 Nothing in this Act shall be construed to preempt any
18 provision of State or local law.

19 **SEC. 4. EFFECTIVE DATE.**

20 The amendments made by this Act shall take effect
21 1 year after the date of enactment of this Act.

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