



January 26, 2000

HOUSE BILL No. 1398

DIGEST OF HB 1398 (Updated January 25, 2000 1:34 PM - DI 101)

Citations Affected: IC 24-8; IC 36-8; noncode.

Synopsis: Adds sweepstakes, contests, and prize giveaways to the definition of "promotion". Requires disclaimers of actual winning odds for promotions that make certain representations to the person receiving the promotion. Provides for disclaimer statements for promotions that do not require a purchase. Provides for disclaimer statements for promotions for which a purchase does not increase the likelihood of winning. Repeals a provision exempting certain types of promotions from certain notice requirements. Allows the transfer of money between and among the accounts of the wireless emergency telephone system fund. Provides procedures for the transfers. Requires that transfers be approved by the affirmative vote of at least eight members of the wireless enhanced 911 advisory board. Requires the regulatory flexibility commission to study the possibility of requiring a board or agency that: (1) regulates a profession; and (2) requires continuing education as a condition of registration, certification, or licensure; to allow not less than one-half of the continuing education requirements to be earned from distance learning courses.

Effective: Upon passage; July 1, 2000.

Bottorff, Duncan

January 11, 2000, read first time and referred to Committee on Commerce and Economic Development.
January 25, 2000, amended, reported — Do Pass.

HB 1398—LS 6856/DI 77+



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January 26, 2000

Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

HOUSE BILL No. 1398

A BILL FOR AN ACT to amend the Indiana Code concerning commerce.

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

- 1 SECTION 1. IC 24-8-2-5 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2000]: Sec. 5. "Promotion" means a written
3 notice offering:
4 (1) property; or
5 (2) a chance to obtain property;
6 to a person based on a representation that the person has been awarded
7 or may have been awarded a prize. **The term includes sweepstakes,
8 contests, and prize giveaways.**
9 SECTION 2. IC 24-8-3-5.5 IS ADDED TO THE INDIANA CODE
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2000]: **Sec. 5.5. (a) If a promotion represents that the person:**
12 **(1) is a winner;**
13 **(2) is a finalist;**
14 **(3) has been specially selected;**
15 **(4) is in "first place"; or**
16 **(5) is otherwise among a limited group of persons with an**
17 **enhanced likelihood of receiving a prize;**

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1 the written prize notice must contain a statement of the maximum
2 number of persons described in subdivision (1), (2), (3), (4), or (5).

3 (b) The statement required under subsection (a) must be in at
4 least 10 point boldface contrasting color type on the first page of
5 the promotion.

6 SECTION 3. IC 24-8-3-7.5 IS ADDED TO THE INDIANA CODE
7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2000]: Sec. 7.5. (a) If a promotion offers a prize for which the
9 purchase of goods or services is not necessary, the first page of the
10 notice must clearly state that purchase is not necessary.

11 (b) Disclosure must be made by using the following statement:
12 "No purchase is necessary to enter this promotion."

13 (c) The disclosure statement must be in at least 10 point
14 boldface contrasting color type.

15 SECTION 4. IC 24-8-3-7.6 IS ADDED TO THE INDIANA CODE
16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2000]: Sec. 7.6. (a) If a promotion offers a prize for which the
18 purchase of goods or services does not enhance the likelihood of
19 receiving a prize, the first page of the notice must clearly state that
20 a purchase does not enhance the likelihood of receiving a prize.

21 (b) Disclosure must be made by using the following statement:
22 "A purchase does not increase your chance of winning."

23 (c) The disclosure statement must be in at least 10 point
24 boldface contrasting color type.

25 SECTION 5. IC 24-8-3-10 IS REPEALED [EFFECTIVE JULY 1,
26 2000].

27 SECTION 6. IC 36-8-16.5-19 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 19. A majority of the
29 members of the board constitutes a quorum for purposes of taking
30 action. **Except as provided in section 39(b) of this chapter**, the board
31 may take action approved by a majority of the members of the board.

32 SECTION 7. IC 36-8-16.5-39 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 39. (a) Except as
34 provided by section 26 of this chapter **and subsection (b)**, the fund
35 must be managed in the following manner:

- 36 (1) Three cents (\$0.03) of the emergency wireless 911 fee
37 collected from each subscriber must be held in an interest bearing
38 escrow account to be used for implementation of phase two (2) of
39 the FCC order. The board shall reevaluate the fees placed into
40 escrow not later than May 1, 2000. The board shall determine if
41 the fee should be reduced, remain the same, or be increased based
42 on the latest information available concerning the costs associated



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1 with phase two (2) of the FCC order.

2 (2) At least twenty-five cents (\$0.25) of the emergency wireless
 3 911 fee collected from each subscriber must be held in escrow
 4 and used to reimburse CMRS providers for the actual costs
 5 incurred by the CMRS providers in complying with the wireless
 6 911 requirements established by the FCC order and rules that are
 7 adopted by the FCC under the FCC order, including costs and
 8 expenses incurred in designing, upgrading, purchasing, leasing,
 9 programming, installing, testing, or maintaining all necessary
 10 data, hardware, and software required to provide service as well
 11 as the costs of operating the service. Except as provided by
 12 section 38 of this chapter, the carrier may only request funds for
 13 true cost recovery. The board may increase the amount held in
 14 escrow under this subdivision not more than one (1) time a
 15 calendar year. If the board adjusts the emergency wireless 911 fee
 16 under section 26 of this chapter within a calendar year, an
 17 adjustment to the amount held in escrow under this subdivision
 18 for the calendar year must be made at that time.

19 (3) Two percent (2%) of the emergency wireless 911 fee collected
 20 from each subscriber may be used by the board to recover the
 21 board's expenses in administering this chapter. However, the
 22 board may increase this percentage at the time the board may
 23 adjust the monthly fee assessed against each CMRS mobile
 24 telephone number to allow for full recovery of administration
 25 expenses.

26 (4) Money remaining in the fund must be held in escrow and used
 27 for monthly distributions to eligible PSAPs that provide wireless
 28 enhanced 911 service and that have submitted written notice to
 29 the board. The board shall maintain a list of eligible PSAPs. The
 30 fund held in escrow under this subdivision must be distributed in
 31 the following manner:

32 (A) Ninety-eight percent (98%) must be distributed among the
 33 eligible PSAPs based upon the percentage of the state's
 34 population (as reported in the most recent official United
 35 States census) served by each PSAP.

36 (B) Two percent (2%) must be distributed among the eligible
 37 PSAPs under a formula:

- 38 (i) established by the board; and
- 39 (ii) based on a PSAP's CMRS 911 call volume.

40 **(b) Notwithstanding the requirements described in subsection**
 41 **(a), the board may transfer money between and among the**
 42 **accounts in subsection (a) in accordance with the following**

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procedures:

- (1) A transfer must be approved by the affirmative vote of at least eight (8) board members.**
- (2) The board may make transfers only one (1) time during a calendar year.**
- (3) The board may not make a transfer that:**
 - (A) impairs cost recovery by CMRS providers or PSAPs;**
 - or**
 - (B) impairs the ability of the board to fulfill its management and administrative obligations described in this chapter.**

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) The regulatory flexibility committee established by IC 8-1-2.6-4 shall:

- (1) study the possibility of requiring a board or agency that:**
 - (A) regulates a profession under IC 15, IC 16, IC 22, or IC 25; and**
 - (B) requires continuing education as a condition of registration, certification, or licensure;**
- to allow not less than one-half (1/2) of the continuing education requirements to be earned from distance learning courses, including home study, teleconference seminars, and computer, video, and audio programs; and**
- (2) report the results of its study to the legislative council before November 1, 2000.**

(b) This SECTION expires December 31, 2000.

SECTION 9. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1398, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning commerce.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1398 as introduced.)

BOTTORFF, Chair

Committee Vote: yeas 12, nays 0.

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