

BUSINESS AND COMMERCE CODE
TITLE 13. CONTESTS AND OTHER PROMOTIONS
CHAPTER 622. SWEEPSTAKES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 622.001. DEFINITIONS. In this chapter:

(1) "Credit card" means a card that, if covered by the law of this state, would be subject to a lender credit card agreement, as defined by Section 301.002, Finance Code, except that the term does not exclude a card that is subject to an agreement under which:

(A) the obligations are payable in full each month and not deferred; and

(B) no finance charge is assessed when the obligations are paid.

(2) "Debit card" means a card offered by an institution the deposits of which are insured by the Federal Deposit Insurance Corporation or another agency, corporation, or instrumentality chartered by the United States government.

(3) "Imply" means to use any means by which an implication can be conveyed, including:

(A) a statement, question, or request;

(B) conduct;

(C) a graphic or symbol; and

(D) lettering, coloring, font size, font style, or formatting.

(4) "Sweepstakes" means a contest that awards one or more prizes based on chance or the random selection of entries.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 622.002. ACTS CONSTITUTING CONDUCTING SWEEPSTAKES. For purposes of this chapter, a person conducts a sweepstakes if the person distributes material that:

(1) promotes a sweepstakes;

(2) describes one or more sweepstakes prizes;

- (3) states one or more sweepstakes rules;
 - (4) includes a current or future opportunity to enter a sweepstakes; or
 - (5) provides a method for the recipient of the material to obtain additional information about a sweepstakes.
- Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER B. APPLICABILITY OF CHAPTER

Sec. 622.051. CHAPTER LIMITED TO SWEEPSTAKES CONDUCTED THROUGH MAIL; EXCEPTION. (a) This chapter applies only to a sweepstakes conducted through the mail.

(b) This chapter does not apply to a sweepstakes for which the only use of the mail is for a consumer to return an entry form to the sweepstakes sponsor.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.052. PRIZE VALUE LESS THAN \$50,000. (a) This chapter does not apply to a sweepstakes in which the value of the most valuable prize is less than \$50,000.

(b) For purposes of this section, the value of a prize is the greatest of the prize's:

- (1) face value;
- (2) fair market value; or
- (3) present financial value.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.053. ADVERTISEMENT OR INSERT IN MAGAZINE, NEWSPAPER, OR CATALOG. This chapter does not apply to a sweepstakes conducted through an advertisement or insert in:

- (1) a magazine or newspaper:
 - (A) that is a publication in which more than 40 percent of the total column inches in each issue consist of advertising space purchased by companies other than:

- (i) the publisher;
- (ii) an affiliate of the publisher; or
- (iii) a vendor for the publisher or an affiliate; and

(B) that is a publication for which more than 50 percent of the total number of copies distributed of each issue are provided to customers who paid for the copy; or

(2) a catalog that is a promotional booklet listing merchandise for sale and that:

(A) is at least 24 pages long;

(B) has a circulation of at least 250,000; and

(C) either:

(i) requires customers to go to a physical location to purchase the advertised items; or

(ii) is published by a company that derives more than 50 percent of the company's total gross revenue from sales occurring at physical locations.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.054. CHARITABLE RAFFLE. This chapter does not apply to a charitable raffle regulated by Chapter [2002](#), Occupations Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.0545. SAVINGS PROMOTION RAFFLE. This chapter does not apply to a savings promotion raffle authorized under Chapter [280](#), Finance Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 978 (H.B. [471](#)), Sec. 2, eff. November 7, 2017.

Sec. 622.055. SWEEPSTAKES REGULATED BY ALCOHOLIC BEVERAGE CODE. This chapter does not apply to a sweepstakes regulated by the Alcoholic Beverage Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.056. COMPANY REGULATED UNDER PUBLIC UTILITY REGULATORY ACT. This chapter does not apply to a company regulated under Title 2, Utilities Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.057. AIR CARRIER; AIRMAN ASSOCIATION. This chapter does not apply to:

(1) a company that is an air carrier subject to Title 49, United States Code; or

(2) a nonprofit association of airmen who are subject to that title.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.058. CERTAIN RECREATIONAL EVENTS. This chapter does not apply to a drawing for the opportunity to participate in a hunting, fishing, or other recreational event conducted by the Parks and Wildlife Department.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.059. CERTAIN FOOD PRODUCTS. This chapter does not apply to a sweepstakes promoting one or more food products regulated by the United States Food and Drug Administration or the United States Department of Agriculture.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.060. AUDIOVISUAL ENTERTAINMENT WORK, PRODUCT, OR SOUND RECORDING. This chapter does not apply to a company if 75 percent or more of the company's business is:

(1) the systematic development, planning, and execution of creating audiovisual entertainment works, products, or sound recordings; and

(2) the distribution, sale, and marketing of those

works, products, or recordings.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 622.061. CABLE SYSTEM. This chapter does not apply to a company that owns or operates a cable system, as defined by 47 U.S.C. Section 522, as amended.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER C. PROHIBITED ACTS OR CONDUCT

Sec. 622.101. CONNECTING SWEEPSTAKES ENTRY OR OPERATION TO ORDER OR PURCHASE. (a) A person conducting a sweepstakes may not use a mechanism for entering the sweepstakes that:

(1) has any connection to ordering or purchasing a good or service;

(2) is not identical for all individuals entering the sweepstakes; and

(3) does not have printed on the entry form, in a font size at least as large as the largest font size used on the entry form, the following language: "Buying Will Not Help You Win. Your chances of winning without making a purchase are the same as the chances of someone who purchases something. It is illegal to give any advantage to buyers in a sweepstakes."

(b) A person conducting a sweepstakes may not:

(1) require an individual to order, purchase, or promise to purchase a good or service to enter the sweepstakes;

(2) automatically enter an individual in the sweepstakes because the individual ordered, purchased, or promised to order or purchase a good or service; or

(3) solicit business using an order form or purchasing mechanism that has any role in the operation of the sweepstakes.

(c) Subsections (a)(1) and (b)(3) do not apply to a single sheet of paper that contains both a sweepstakes entry form and an order form if:

(1) the order form is perforated or detachable; and

(2) the entry form must be separated from the order form and returned to a different address than the order form.

(d) Subsections (a) and (b)(2) and (3) do not apply to a sweepstakes offered to promote a credit card or debit card if the official rules of the sweepstakes provide that consumers are entered in the sweepstakes based on the number of purchases made or the amount of money spent. The exception provided by this subsection applies only to a person offering a sweepstakes who qualified as an issuer as of January 1, 2001.

(e) Subsections (a) and (b)(2) and (3) do not apply to a company offering a sweepstakes in which the consumer must go to a physical location to obtain or use the goods or services being sold by the company.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.102. USING MULTIPLE SWEEPSTAKES ENTRY ADDRESSES OR MULTIPLE PURPOSES FOR ADDRESS. A person conducting a sweepstakes who provides for entering the sweepstakes by mail may not:

(1) accept entries at more than one address; or

(2) use the address for entry in the sweepstakes for any other purpose.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.103. ALLOWING CHOICE OF PRIZE OR INDICATION OF PREFERRED PRIZE CHARACTERISTICS. A person conducting a sweepstakes may not:

(1) solicit an individual to enter the sweepstakes by invitation or other opportunity; and

(2) allow the individual to choose, or indicate the preferred characteristics of, a prize to be awarded in the sweepstakes unless the choice or indication:

(A) is made on the sweepstakes entry form; and

(B) does not appear on, and is not in any way connected to, an order form or other purchasing mechanism.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01,

eff. April 1, 2009.

Sec. 622.104. SENDING SWEEPSTAKES MATERIAL THAT INCLUDES CERTAIN STATEMENTS OR IMPLICATIONS. A person conducting a sweepstakes may not send material accompanying or relating to the sweepstakes or an offer to enter the sweepstakes that:

(1) states or implies that:

(A) an individual must comply with a restriction or condition to enter the sweepstakes, unless all individuals entering the sweepstakes are required to comply with the identical restriction or condition;

(B) an individual's chances of winning a prize in the sweepstakes are higher, lower, or different in any way because of a factor or circumstance that does not relate to the manner in which a winner is selected;

(C) a winner will be selected at a time or place or in a manner that is different from the actual time or place at which or manner in which a winner is selected;

(D) an individual who orders or purchases a good or service will receive a benefit or be treated differently in the sweepstakes in comparison to an individual who does not order or purchase a good or service; or

(E) an individual who does not order or purchase a good or service will be disadvantaged or treated differently in the sweepstakes in comparison to an individual who orders or purchases a good or service;

(2) states or implies falsely that the individual receiving the material has received special treatment or personal attention from the offeror of the sweepstakes or any officer, employee, or agent of the offeror; or

(3) states that the recipient of the material:

(A) is a winner, if the recipient is not a winner;

(B) may be a winner;

(C) will be a winner if certain conditions are met or certain events occur;

(D) may be or will be among the group from which a winner will be selected; or

(E) has in any way a better chance than another individual of being chosen as a winner.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.105. USING GAME PIECE TO CONVEY INFORMATION OR OFFER TO ENTER. A person conducting a sweepstakes may not convey information about the sweepstakes or an offer to enter the sweepstakes by using a scratch-off device or any other game piece that suggests an element of chance or luck.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.106. PUBLISHING ADVERTISEMENTS OR RULES WITH INCONSISTENT OR INCOMPLETE PRIZE DESCRIPTIONS. A person conducting a sweepstakes may not publish or cause to be published:

(1) different advertisements for the same sweepstakes that contain inconsistent descriptions of the grand prize to be awarded through the sweepstakes; or

(2) official rules of the sweepstakes that do not uniquely identify the prizes to be awarded and the date the prizes will be awarded.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.107. ENGAGING IN CONDUCT THAT FALSELY INDICATES AN INDIVIDUAL HAS WON. A person conducting a sweepstakes may not:

(1) ask an individual to provide any information or take any action consistent with the individual winning a sweepstakes prize, unless the individual has won a sweepstakes prize; or

(2) provide an individual who has not yet won a sweepstakes prize with a document or other item that simulates an event, circumstance, or condition connected with being a sweepstakes winner.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.108. AWARDING MULTIPLE PRIZES. A person conducting a sweepstakes may not award multiple prizes in the sweepstakes unless all prizes are awarded on the same date and through the same selection process.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 622.109. MAILING CERTAIN OFFERS DURING PERIOD FOLLOWING SWEEPSTAKES. A person conducting a sweepstakes may not, during the 30-day period immediately following the last date on which the person conducted the sweepstakes through the mail, offer through the mail:

(1) an opportunity to enter a sweepstakes; or

(2) a nonsweepstakes prize, gift, premium, giveaway, or skill contest.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 622.110. PROVIDING NAMES OR ADDRESSES USED IN PROHIBITED SWEEPSTAKES. A person may not provide names or addresses of residents of this state that are used in conducting a sweepstakes that the person knows violates this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER D. ACTS OR CONDUCT NOT PROHIBITED

Sec. 622.151. DESCRIPTION OF METHOD OF CHOOSING WINNER. This chapter does not prohibit a sweepstakes sponsor from describing in the official sweepstakes rules the method to be used in choosing a winner.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 622.152. NOTIFICATION OF AND AFFIDAVIT FROM WINNER. This chapter does not prohibit a sweepstakes sponsor, after a

winner has been chosen, from:

- (1) notifying an individual chosen as a winner; or
- (2) obtaining from an individual chosen as a winner an affidavit to verify that the individual:
 - (A) is eligible to win the prize; and
 - (B) has complied with the sweepstakes rules.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER E. ENFORCEMENT

Sec. 622.201. ACTION BY ATTORNEY GENERAL; VENUE. The attorney general may bring an action under this chapter by filing suit in a district court in Travis County or in any county in which a violation occurred.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.202. CIVIL PENALTY. (a) The court shall award the attorney general a civil penalty of not less than \$5,000 or more than \$50,000 for each violation found.

(b) If the material accompanying or relating to a sweepstakes or an offer to enter a sweepstakes contains multiple statements, implications, representations, or offers that are prohibited by this chapter, each statement, implication, representation, or offer is a separate violation and results in a separate civil penalty. Each individual who receives the material constitutes an additional and separate group of violations of this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 622.203. LIABILITY FOR PROVIDING NAMES OR ADDRESSES USED IN PROHIBITED SWEEPSTAKES. (a) A person who violates Section [622.110](#) is liable for the cumulative civil penalties that result from the person's conduct.

(b) Liability of a person under Subsection (a) does not

reduce the liability of the person who conducted the sweepstakes.
Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01,
eff. April 1, 2009.

Sec. 622.204. INJUNCTIVE AND OTHER RELIEF. The court may also award injunctive relief or other equitable or ancillary relief that is reasonably necessary to prevent violations of this chapter.
Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01,
eff. April 1, 2009.

Sec. 622.205. NO PRIVATE RIGHT OF ACTION. This chapter does not create a private right of action.
Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01,
eff. April 1, 2009.

Sec. 622.206. RECOVERY OF EXPENSES BY ATTORNEY GENERAL. If the attorney general substantially prevails, the court shall award the attorney general reasonable expenses incurred in recovering a civil penalty under this subchapter, including court costs, reasonable attorney's fees, reasonable investigative costs, witness fees, and deposition expenses.
Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01,
eff. April 1, 2009.