WEST VIRGINIA CODE: §46A-6D-4

§46A-6D-4. Representation of eligibility to win or to receive a prize, gift or item of value.

(a) A person may not represent that another person is eligible or has a chance to win or to receive a prize, gift or item of value without clearly and conspicuously disclosing on whose behalf the contest or promotion is conducted, as well as all material conditions which a participant must satisfy. In an oral solicitation all material conditions shall be disclosed prior to requesting the consumer to enter into the sale or lease. Additionally, in any written material covered by this section, each of the following shall be clearly and prominently disclosed:

(1) Immediately adjacent to the first identification of the prize, gift or item of value to which it relates; or

(2) In a separate section entitled "Consumer Disclosure" which title shall be printed in no less than ten-point bold-face type and which section shall contain only a description of the prize, gift or item of value and the disclosures outlined in paragraphs (i), (ii) and (iii) of this subdivision:

(i) The true retail value of each item or prize;

(ii) The actual number of each item, gift or prize to be awarded; and

(iii) The odds of receiving each item, gift or prize.

(b) All disclosures required by this article to be in writing shall comply with the following:

(1) All dollar values shall be stated in arabic numerals and be preceded by a dollar sign ($); and

(2) The number of each item, gift or prize to be awarded and the odds of receiving each item, gift or prize shall be stated in arabic numerals and shall be written in a manner which is clear and understandable.

(c) It is unlawful to notify a person that upon acceptance or response he or she will receive a gift, prize or item of value in connection with a promotion or otherwise that has as a condition of receiving the gift, prize or item of value the requirement that he or she pay any money, or purchase, lease or rent any goods or services, unless there has been clearly and conspicuously disclosed the nature of the charges to be incurred, including, but not limited to, any shipping charge and handling charges. Such disclosure shall be given:

(1) On the face of any written materials; or

WV Legislature

(2) Prior to requesting or inviting the person to enter into the sale or lease in any oral notification.

(d) The provisions of this section do not apply where to be eligible:

(1) Participants are asked only to complete and mail, or deposit at a local retail commercial establishment, an entry blank obtainable locally or by mail, or to call in their entry toll free by telephone or other free or local calling option; or

(2) Participants are never required to listen to a sales presentation and never requested or required to pay any sum of money for any merchandise, service or item of value.

(e) Nothing in this section creates any liability for acts by the publisher, owner, agent or employee of a newspaper, periodical, radio station, telecommunications company, television station, cable-television system or other advertising medium arising out of the publication or dissemination of any advertisement or promotion governed by this section, when the publisher, owner, agent or employee did not know that the advertisement or promotion violated the requirements of this section.

WV Legislature