



**State of Louisiana**  
LOUISIANA MOTOR VEHICLE COMMISSION

**Bobby Jindal**  
Governor

**Lessie A. House**  
Executive Director

July 31, 2008

**BULLETIN #B-2008-05**

**TO: New Motor Vehicle Dealers**

**RE: Gas Cards and Promotional Contests**

**Title 46, Part V, Subpart 1, Chapter 7, §735 Cash Offers provides:**

**A. Any cash offer or anything that is convertible to cash funded by the dealer shall not be used and is prohibited.**

This prohibition also applies to certificates that may be redeemed for cash and certificates that may be redeemed for items other than cash, as well as, debit cards.

The Commission, at its July 14, 2008 regularly scheduled meeting, considered the giveaway of "Gas Cards" and determined "Gas Cards" are permissible if the card has no cash value, nor can cash be given on the card, and no other merchandise other than gas can be purchased with the card. In other words, the card can be used for the purchase of gas ONLY.

Further, the dealer's advertising of any such program must also comply with the advertising laws, rules and regulations of the Louisiana Motor Vehicle Commission.

Licensees of the Louisiana Motor Vehicle Commission should also note that "Promotional Contests" are regulated by the State of Louisiana in Louisiana Revised Statutes 51:1721, 51:1722, 51:1723, and 51:1725, copy enclosed.

Please be governed accordingly.



West's Louisiana Statutes Annotated [Currentness](#)

Louisiana Revised Statutes

Title 51. Trade and Commerce

[Chapter 19-A](#). Promotional Contests

**→ § 1721. Promotional contests; prerequisites for lawful promotion**

A. (1) Unless written disclosure is made as provided in Subsection B of this Section, it shall be unlawful for any person, firm, or corporation to offer in writing a prize or gift to a consumer as part of any advertising or sales promotion plan, if, in order to claim the prize or gift, the consumer is given, invited, required, or requested to submit to a sales presentation or promotional program.

(2) Unless verbal disclosure is made as provided in Subsection B of this Section, it shall be unlawful for any person, firm, or corporation to offer verbally a prize or gift to a consumer as part of any advertising or sales promotion plan, if, in order to claim the prize or gift, the consumer is given, invited, required, or requested to submit to a sales presentation or promotional program.

B. Such disclosure must be provided to the consumer at the time he is notified of the prize or gift. The disclosure must contain all of the following:

(1) A full description of the exact prize or gift tendered to the consumer, including its cash value.

(2) All terms and conditions attached to the prize or gift.

(3) A statement that the consumer is given, invited, required, or requested to submit to a sales presentation or promotional program.

(4) A full description of the product, real estate, investment, services, membership, or any other item to be offered for sale, including the price of the least expensive and the most expensive item or parcel.

C. Any prize, gift, or other item offered pursuant to a prize and gift promotional offer must be delivered to the prospective purchaser whether or not he or she purchases the product offered for sale. If the prize, gift, or other item is valued at two hundred dollars or less, or is a vacation certificate, it must be delivered on the day the recipient appears to claim it. If the prize, gift, or other item is valued in excess of two hundred dollars or if ordered supplies of the item have been exhausted, a gift voucher describing the item must be offered. Such vouchers shall state that the company giving the item will provide the described item within fourteen days following issuance of the voucher or will pay to the offeree the manufacturer's suggested price or, if there is no such price, the verifiable retail value.

D. If the prize or gift is a "free vacation", there can be no hidden promotional fees, voucher fees, processing fees, or other such fees, and all airline fares, hotel expenses, and other items must have previously been paid. If a "free vacation" is provided by a person, firm, or corporation located outside Louisiana, that person, firm, or corporation must comply with all applicable laws for conducting business in Louisiana. If any shipping, handling, processing, or other fees or charges are to be borne by the recipient, the gift cannot be advertised as free to

the consumer.

E. (1) Any contract in excess of five hundred dollars resulting from a transaction in which a consumer is given, invited, required, or requested to submit to a sales presentation or promotional program as a condition of receiving a prize or gift shall afford the consumer a right to cancel at any time prior to midnight of the third business day following the day on which the contract is signed. Such contract shall contain the following disclosure in ten point, bold face type on the face of the contract:

"CONSUMER'S RIGHT TO CANCEL

You may cancel this contract at any time prior to midnight of the third business day following the day on which this contract is signed. Cancellation takes place when you mail, by certified mail, a notice of your cancellation to the following address."

(2) The notice of cancellation privilege shall not apply:

(a) If a cancellation privilege of more than three days is created in other statutes and notice is given as required by such statutes, or

(b) To contracts subject to 16 Code of Federal Regulations 429.

F. The provisions of this Section shall not apply when:

(1) Participants are only asked to complete and mail, or deposit at a local retail commercial establishment, an entry blank obtainable locally or by mail.

(2) Participants are not asked to, required to, requested to, or invited to submit to or listen to a sales presentation or promotional program.

CREDIT(S)

Added by Acts 1983, No. 527, § 1. Amended by Acts 1986, No. 797, § 1; [Acts 1987, No. 488, § 1](#); [Acts 1993, No. 333, § 1](#).

HISTORICAL AND STATUTORY NOTES

2003 Main Volume

Section 2 of Acts 1983, No. 527, provides:

"This Chapter shall not apply to time share or interval ownership plans if House Bill No. 1169 of the 1983 Regular Session becomes law."

House Bill No. 1169 was enacted as Acts 1983, No. 552.

The 1986 amendment inserted "or gift" following "prize" throughout subsecs. A and B, substituted "tendered to" for "won by" in par. (B)(1), inserted subsec. C and redesignated former subsec. C as subsec. D.

Pursuant to the statutory revision authority of the Louisiana State Law Institute, quotation marks were added in

subsec. C, and "when" was substituted for "where" in subsec. D of this section as amended in 1986.

The 1987 amendment, in subsec. A, substituted "is required or requested to submit to a sales promotion" for "must submit to a sales presentation"; in par. (B)(3), substituted "is required or requested to" for "must"; inserted subsec. C, relating to delivery and vouchers; inserted subsec. D relating to "free vacations"; redesignated former subsecs. C and D as subsecs. E and F; in par. (E)(1), substituted "is required or requested to" for "must"; and inserted a comma following "consumer" in par. (B)(1).

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as amended in 1987, in subsec. C, a comma was inserted following "less", and in subsec. D, a comma was inserted preceding "there can".

The 1993 amendment rewrote subsec. A, subsec. B, par. (1) of subsec. E, and subsec. F, which had provided, respectively:

"A. Unless written disclosure is made as provided in Subsection B of this Section, it shall be unlawful for any person, firm, or corporation to offer in writing a prize or gift to a consumer as part of any advertising or sales promotion plan, if, in order to claim the prize or gift, the consumer is required or requested to submit to a sales promotion.

"B. Such written disclosure must be furnished to the consumer at the time he is notified of the prize or gift. The written disclosure must contain all of the following:

"(3) A statement that the consumer is required or requested to submit to a sales presentation."

"E. (1) Any contract in excess of five hundred dollars resulting from a transaction in which a consumer is required or requested to submit to a sales presentation as a condition of receiving a prize or gift shall afford the consumer a right to cancel at any time prior to midnight of the third business day following the day on which the contract is signed. Such contract shall contain the following disclosure in ten point, bold face type on the face of the contract:

" 'CONSUMER'S RIGHT TO CANCEL

"You may cancel this contract at any time prior to midnight of the third business day following the day on which this contract is signed. Cancellation takes place when you mail, by registered mail, a notice of your cancellation to the following address.'

"F. The provisions of this Section shall not apply when:

"(1) Participants are only asked 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 by telephone, or

"(2) Participants are not asked to listen to a sales presentation."

Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as amended in 1993, ";" or" between pars. (F)(1) and (F)(2) was changed to a period.

**Title of Act:**

An Act to enact Chapter 19-A of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 51:1721 through [R.S. 51:1722](#), relative to promotional contests, to provide for the lawful conduct of promotional contests, to provide for penalties for noncompliance, and otherwise to provide with respect thereto. Acts 1983, No. 527.

#### CROSS REFERENCES

False advertising, see [R.S. 51:411 et seq.](#)

#### LIBRARY REFERENCES

2003 Main Volume

Consumer Protection  7.

Westlaw Topic No. 92H.

C.J.S. Credit Reporting Agencies; Consumer Protection § 59.

LSA-R.S. 51:1721, **LA R.S. 51:1721**

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West's Louisiana Statutes Annotated [Currentness](#)

Louisiana Revised Statutes

Title 51. Trade and Commerce

[Chapter 19-A](#). Promotional Contests

**→ § 1722. Violations; penalties**

A. Violation of any of the provisions of this Chapter shall constitute an unfair practice under [R.S. 51:1405\(A\)](#).

B. Whoever violates any provision of this Chapter shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both, for each such violation.

CREDIT(S)

Added by Acts 1983, No. 527, § 1. Amended by [Acts 1987, No. 488, § 1](#); [Acts 1990, No. 760, § 1](#).

HISTORICAL AND STATUTORY NOTES

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The 1987 amendment rewrote this section, which read:

"§ 1722. Violations

"Violations of the provisions of this Chapter shall constitute an unfair practice under [R.S. 51:1405\(A\)](#)."

The 1990 amendment, in subsec. B, substituted "any provision of this Chapter" for "[R.S. 51:1721](#)" following "violates"; and added ", for each such violation" to the end of the subsection.

LIBRARY REFERENCES

2003 Main Volume

Consumer Protection 30, 50.

Westlaw Topic No. 92H.

C.J.S. Credit Reporting Agencies; Consumer Protection §§ 95, 109, 118 to 122.

LSA-R.S. 51:1722, LA R.S. 51:1722

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[Chapter 19-A](#). Promotional Contests

**→ § 1723. Representation of having won anything of value or of having been specially selected; simulation of checks and invoices**

A. (1) No person shall, in connection with the sale or lease or the solicitation for the sale or lease of goods, property, or service, represent that another person has won anything of value or is the winner of a contest, unless each of the following conditions is met:

(a) The recipient of the prize, gift, or item of value shall be given the prize, gift, or item of value without obligation.

(b) The prize, gift, or item of value shall be delivered to the recipient, at no expense to him, within ten days of representation.

(c) The prize, gift, or item of value shall be delivered to the recipient within ten days of representation without assessing the recipient any shipping and handling charges.

(2) The use of language that may lead a reasonable person to believe he has won a contest or anything of value, including but not limited to "Congratulations", or "You have won", or "You are the winner of", shall be considered a representation of the type governed by this Section. The use of such language on an envelope, envelope window, flier, or insert card shall be prohibited on any solicitations or notifications in which the consumer is not previously established as the winner or recipient of the prize, gift, or item of value referred to unless any conditions are clearly and conspicuously disclosed. If the marketing material or direct mail package contains a notification of conditional status in a promotion or contest, no text in any of the enclosed material or on the envelope shall contain the words "Congratulations", "You have won", "You are the winner of", or any substantially similar words or phrases unless any conditions are clearly and conspicuously disclosed.

B. (1) No person shall represent that another person has been specially selected in connection with the sale or lease or solicitation for sale or lease of goods, property, or service, unless the selection process is designed to reach a particular type or types of persons.

(2) The use of any language that may lead a reasonable person to believe he has been specially selected, including but not limited to "carefully selected", or "You have been selected to receive", or "You have been chosen", shall be considered a representation of the type governed by this Section.

C. In connection with the sale or lease or solicitation for the sale or lease of goods, property, or service, no person shall issue any writing which simulates or resembles:

(1) A check unless the writing clearly and conspicuously discloses its true value and purpose, and the writing would not mislead a reasonable person; or

(2) An invoice unless the intended recipient of the invoice has actually contracted for goods, property, or services for which the issuer seeks proper payment.

#### CREDIT(S)

Added by [Acts 1990, No. 760, § 1](#). Amended by [Acts 1995, No. 280, § 1](#); [Acts 1999, No. 511, § 1](#).

#### HISTORICAL AND STATUTORY NOTES

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This section, enacted as [R.S. 51:1721.1](#) by [Acts 1990, No. 760, § 1](#), was redesignated as R.S. 51:1723 pursuant to the statutory revision authority of the Louisiana State Law Institute.

The 1995 amendment, in par. (A)(1), inserted "the" preceding "solicitation"; and in par. (A)(2), added the second and third sentences, prohibiting the use of certain language on solicitations or notifications unless certain conditions are met.

[Acts 1999, No. 511, § 1](#) added subpar. (A)(1)(c), providing that the prize, gift, or item shall be delivered to the recipient within ten days of representation without assessing the recipient any shipping and handling charges. Section 2 of Act 511 repealed [R.S. 51:1724](#), which had related to shipping and handling charges for gifts and prizes.

#### LIBRARY REFERENCES

##### 2003 Main Volume

Consumer Protection  6.

Westlaw Topic No. 92H.

C.J.S. Credit Reporting Agencies; Consumer Protection §§ 29 to 31, 33 to 39, 60 to 65.

LSA-R.S. 51:1723, LA R.S. 51:1723

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Title 51. Trade and Commerce

 [Chapter 19-A. Promotional Contests](#)

**→ § 1725. Mail solicitations for contest participation**

A. (1) No person or entity shall solicit an individual by mail to participate in a contest unless such solicitation contains either of the following:

(a) A statement of the odds that a participant making a single entry in such contest has of winning each item offered as a gift, prize, or thing of value.

(b) A statement that the odds depend upon the number of entries received.

(2) Such a statement shall be clearly and conspicuously printed on the face of the solicitation in bold type of at least twelve points or shall be contained in a section with contest rules.

B. Each violation of this Section shall constitute an unfair practice under [R.S. 51:1405\(A\)](#) and shall be punishable as provided in [R.S. 51:1722\(B\)](#).

CREDIT(S)

Added by [Acts 1995, No. 1169, § 1.](#)

LIBRARY REFERENCES

2003 Main Volume

Consumer Protection  7.

Westlaw Topic No. 92H.

C.J.S. Credit Reporting Agencies; Consumer Protection § 59.

LSA-R.S. 51:1725, LA R.S. 51:1725

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