

**SWEEPSTAKES CONNECTED WITH THE SALE OF  
CONSUMER PRODUCTS OR SERVICES**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Melvin R. Brown**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill enacts a provision regulating a sweepstakes in connection with a consumer transaction.

**Highlighted Provisions:**

This bill:

- ▶ enacts the Sweepstakes Regulation Act;
- ▶ requires the operator of a sweepstakes to register with the Division of Consumer Protection;
- ▶ establishes requirements relating to sweepstakes rules and conditions;
- ▶ establishes requirements applicable to a sweepstakes; and
- ▶ establishes civil and criminal penalties for violating provisions applicable to a sweepstakes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**13-48-101**, Utah Code Annotated 1953



- 28           **13-48-102**, Utah Code Annotated 1953
- 29           **13-48-201**, Utah Code Annotated 1953
- 30           **13-48-202**, Utah Code Annotated 1953
- 31           **13-48-203**, Utah Code Annotated 1953
- 32           **13-48-204**, Utah Code Annotated 1953
- 33           **13-48-301**, Utah Code Annotated 1953
- 34           **13-48-302**, Utah Code Annotated 1953



36 *Be it enacted by the Legislature of the state of Utah:*

37           Section 1. Section **13-48-101** is enacted to read:

38                           **CHAPTER 48. SWEEPSTAKES REGULATION ACT**

39   **Part 1. General Provisions**

40           **13-48-101. Title.**

41           This chapter is known as the "Sweepstakes Regulation Act."

42           Section 2. Section **13-48-102** is enacted to read:

43           **13-48-102. Definitions.**

44           As used in this chapter:

- 45           (1) "Consumer transaction" has the same meaning as defined in Section 13-11-3.
- 46           (2) "Division" means the Division of Consumer Protection created in Section 13-2-1.
- 47           (3) "Operator" means a person who promotes, operates, or conducts a sweepstakes.
- 48           (4) "Sweepstakes" means a contest or promotion:
  - 49           (a) conducted in the state in connection with a consumer transaction; and
  - 50           (b) in which a person may participate without making a purchase or paying an entry

51 fee.

52           Section 3. Section **13-48-201** is enacted to read:

53   **Part 2. Provisions Governing Sweepstakes**

54           **13-48-201. Prohibited acts.**

55           It is unlawful for an operator:

- 56           (1) to promote, operate, or conduct a sweepstakes in which the winner is
- 57 predetermined;
- 58           (2) to remove, disqualify, disallow, or reject a sweepstakes entry that complies with the

59 rules and conditions of the sweepstakes;

60 (3) to fail to award a prize offered if claimed by a lawful winner;

61 (4) to print, publish, or circulate sweepstakes literature or advertising material that is  
62 false, deceptive, or misleading; or

63 (5) to refuse to permit a person to participate in the sweepstakes because the person has  
64 not made a purchase or paid an entry fee.

65 Section 4. Section **13-48-202** is enacted to read:

66 **13-48-202. Sweepstakes registration.**

67 (1) At least seven days before the commencement of a sweepstakes, an operator shall  
68 register with the division on a form established by the division.

69 (2) A completed registration form under Subsection (1) shall be accompanied by:

70 (a) a \$100 registration fee;

71 (b) a copy of the sweepstakes rules and conditions;

72 (c) a list of each prize with a value exceeding \$250 to be offered in the sweepstakes;

73 and

74 (d) the odds of winning each prize listed under Subsection (2)(c).

75 (3) The division shall deposit all registration fees collected under this section in the  
76 Commerce Service Account created in Section 13-1-2.

77 Section 5. Section **13-48-203** is enacted to read:

78 **13-48-203. Sweepstakes rules and conditions.**

79 (1) An operator may not change sweepstakes rules and conditions after submitting  
80 them to the division with a registration form under Subsection 13-48-202(1).

81 (2) An operator shall:

82 (a) conspicuously post the sweepstakes rules and conditions in each retail outlet or  
83 location where the sweepstakes is conducted or where the public may participate in the  
84 sweepstakes; and

85 (b) subject to Subsection (3), publish the sweepstakes rules and conditions in all  
86 advertising materials used in connection with the sweepstakes.

87 (3) An advertising material used in connection with a sweepstakes need include only a  
88 summary of material sweepstakes rules and conditions if the material includes an Internet  
89 address, a toll-free telephone number, or a mailing address where the full rules and conditions

90 may be viewed, heard, or obtained during the entire time that the sweepstakes is conducted.

91 (4) A radio or television advertisement or announcement concerning a sweepstakes  
92 may indicate that the sweepstakes rules and conditions are available at retail outlets or from the  
93 operator.

94 Section 6. Section **13-48-204** is enacted to read:

95 **13-48-204. Duty to maintain list of winners.**

96 (1) For at least a year following the conclusion of a sweepstakes, an operator shall  
97 maintain a list of the name and address of each person who wins a prize with a value of more  
98 than \$250 and the value of each of those prizes won.

99 (2) An operator shall provide a copy of a list under Subsection (1) to any person who,  
100 within 30 days after the conclusion of the sweepstakes, makes a written request.

101 (3) If a participant in a sweepstakes is in possession of a game piece from which the  
102 participant may determine that the participant has won a designated prize, an operator is not  
103 required to notify the winner by mail or telephone.

104 (4) An operator shall hold all winning entries in a sweepstakes for at least 30 days after  
105 the conclusion of the sweepstakes.

106 (5) A participant in a sweepstakes who wins a prize shall claim the prize within 30  
107 days after the conclusion of the sweepstakes.

108 Section 7. Section **13-48-301** is enacted to read:

109 **Part 3. Enforcement**

110 **13-48-301. Action to enjoin noncomplying sweepstakes -- Misdemeanor.**

111 (1) If the division has reason to believe that a sweepstakes is being operated in  
112 violation of this section, the division may bring an action in the district court of the judicial  
113 district in which the sweepstakes is being operated against the operator of the sweepstakes to  
114 enjoin the continued operation of the sweepstakes.

115 (2) An operator who engages in an act in violation of this section:

116 (a) is guilty of a class B misdemeanor;

117 (b) is liable for a civil penalty of not more than \$1,000 for each violation; and

118 (c) is subject to an administrative fine imposed by the division in an amount not to  
119 exceed \$2,500 per violation.

120 Section 8. Section **13-48-302** is enacted to read:

121 13-48-302. Sweepstakes in compliance is not gambling.

122 A sweepstakes registered and operated as provided in this section is conclusively

123 presumed not to violate Title 76, Chapter 10, Part 11, Gambling.

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Legislative Review Note  
as of 2-16-11 1:59 PM

Office of Legislative Research and General Counsel

# FISCAL NOTE

H.B. 484

SHORT TITLE: Sweepstakes Connected with the Sale of Consumer Products or Services

SPONSOR: Brown, M.

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Provisions of this bill require a registration fee of \$100 for sweepstakes operators. It is estimated that 3,220 sweepstake operators will register each year totaling \$332,000 into the Commerce Service Fund. Estimated cost of oversight of the program is estimated at \$247,800 annually from the Commerce Service Fund. The bill also allows for fines to be paid by those who violate provisions of the bill. It is unknown at this time how many fines will be levied. Revenues to the Commerce Service Fund affect the transfer to the General Fund.

## STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
<b>Revenue:</b>			
General Fund	\$0	\$74,200	\$74,200
Commerce Service Fund	\$0	\$322,000	\$322,000
Total Revenue	\$0	\$396,200	\$396,200
<b>Expenditure:</b>			
Commerce Service Fund	\$0	\$247,800	\$247,800
Total Expenditure	\$0	\$247,800	\$247,800
Net Impact, All Funds (Rev.-Exp.)	\$0	\$148,400	\$148,400
Net Impact, General/Education Funds	\$0	\$74,200	\$74,200

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Costs to individuals and businesses sponsoring sweepstakes are expected to be \$322,000 annually.