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### California Sweepstakes Bill Gaining Momentum

The California legislature is considering a bill - Senate Bill 1400 - that would amend existing state law by adding numerous disclosure requirements for sweepstakes materials and would prohibit a sweepstakes sponsor from sharing or selling the names and information of its customers or participants without prior express consent.

The bill was approved by the Senate on May 8 and is now before the Assembly and it might be voted on before the lawmakers adjourn on July 3. If enacted, the bill would significantly impact how sweepstakes are advertised and conducted.

The bill prohibits selling or sharing customer or participant information without prior express consent. This provision is not limited to personally identifiable information so it would apply broadly to all information about customers and participants. Note that the bill does not define what constitutes "prior express consent."

The bill also mandates several disclosures such as:

- Sweepstakes materials shall not represent that a person has been specially selected when more than 25 percent of the persons receiving the sweepstakes materials have the same chance of winning. "Specially selected" is defined as a representation that a person is a winner, a finalist, in first place or tied for first place or otherwise among a limited group of persons with an enhanced likelihood of receiving a prize.
- If sweepstakes materials state that a recipient has been specially selected (in compliance with the provi-

sion above), the materials must also state - immediately adjacent to and in the same print, size and color as the specially selected statement - the number of persons in the group that received the same sweepstakes materials.

- Sweepstakes materials shall not represent that a prize notice is urgent unless there is a limited time period in which the recipient must respond and the date of such response is stated immediately adjacent in the same print, size and color as the statement of urgency.
- Sweepstakes materials must disclose the date the final winner will be determined.
- Sweepstakes materials must contain a copy of the official rules.

"Sweepstakes materials" is broadly defined as any of the following: sweepstakes entry materials, solicitation materials connected to or promoting sweepstakes, and solicitation materials selling information regarding sweepstakes. This means that some of the disclosures would have to appear where they typically do not appear. For example, if there is a statement of urgency on the outer envelope, the disclosure of the date by which some action must be taken must also appear on the outer envelope. It also appears that if a sweepstakes is promoted on product packaging, the official rules must also appear on the product packaging.

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