

AMENDED IN SENATE JUNE 21, 2006

AMENDED IN ASSEMBLY MAY 1, 2006

AMENDED IN ASSEMBLY MARCH 23, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1958

Introduced by Assembly Member Leslie

February 6, 2006

~~An act to add Article 2.5 (commencing with Section 17545) to Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, relating to the Internet. An act to add Article 7.7 (commencing with Section 12082) to Chapter 1 of Part 2 of Division 3 of Title 2 of the Government Code, relating to state government.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1958, as amended, Leslie. ~~The Internet: free gift offers. State government: Office of Faith-Based and Community Initiatives.~~

Existing law requires the Governor to supervise the official conduct of all executive and ministerial officers. Existing federal regulations make faith-based organizations eligible for specified federal grants.

This bill would establish the Office of Faith-Based and Community Initiatives within the Office of the Governor and would require the office to serve as a clearinghouse of information on federal, state, and local funding for charitable services performed by charitable organizations, as defined, encourage those organizations to seek public funding for their charitable services, act as a liaison between state agencies and those organizations, and advise the Governor, Legislature, and the advisory board of the office on the barriers to collaboration between those organizations and governmental entities

and on ways to remove the barriers. The bill would create the Advisory Board of the Office of Faith-Based and Community Initiatives, to be appointed as specified, and require it to provide direction, guidance, and oversight to the office and publish a report of its activities on or before the first day of August of each year.

~~Existing law makes it unlawful for any person to use the term “gift” in any manner that would be untrue or misleading. Existing law also prohibits the offering, as a part of an advertising plan or program, of any prize, gift, money, or other item of value as an inducement to visit a location, attend a sales presentation, or contact a sales agent, unless specified disclosure are made.~~

~~This bill would require any advertisement or commercial e-mail advertisement, as defined, that promotes or solicits a consumer to redeem an Internet free gift offer, as defined, to provide the consumer with a specified disclosure statement. The bill would require the disclosure statement to contain a check-off box that confirms that the consumer has read and agreed to the terms before redeeming the offer.~~

~~This bill would provide that if any part of these provisions or their application is deemed invalid, the invalidity would not affect other provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 7.7 (commencing with Section 12082) is
2 added to Chapter 1 of Part 2 of Division 3 of Title 2 of the
3 Government Code, to read:

4
5 Article 7.7. Office of Faith-Based and Community Initiatives
6

7 12082. As used in this article, “organization” means a
8 faith-based or other organization that is exempt from federal
9 income taxation under Section 501(c)(3) of the Internal Revenue
10 Code of 1986 and provides charitable services to needy residents
11 of this state.

12 12082.5. (a) There is hereby established within the Office of
13 the Governor the Office of Faith-Based and Community
14 Initiatives. The office shall do all of the following:

1 (1) *Serve as a clearinghouse of information on federal, state,*
2 *and local funding for charitable services performed by*
3 *organizations.*

4 (2) *Encourage organizations to seek public funding for their*
5 *charitable services.*

6 (3) *Act as a liaison between state agencies and organizations.*

7 (4) *Advise the Governor, Legislature, and Advisory Board of*
8 *the Office of Faith-Based and Community Initiatives on the*
9 *existing barriers to collaboration between organizations and*
10 *governmental entities and on ways to remove those barriers.*

11 (b) *The Governor shall appoint an executive assistant to*
12 *manage the office and perform or oversee the performance of the*
13 *duties of the office.*

14 12083. (a) *There is hereby created the Advisory Board of the*
15 *Office of Faith-Based and Community Initiatives. The board*
16 *shall consist of members appointed as follows:*

17 (1) *The Director of the Department of Aging, the Director of*
18 *Alcohol and Drug Programs, the Director of Health Services, the*
19 *Director of Mental Health, the Director of Employment*
20 *Development, and the Secretary of the Department of*
21 *Corrections and Rehabilitation shall each appoint to the board*
22 *one employee of that director's department.*

23 (2) *The Speaker of the Assembly shall appoint to the board*
24 *two Members of the Assembly, not more than one of whom shall*
25 *be from the same political party. The Senate Committee on Rules*
26 *shall appoint to the board two Members of the Senate, not more*
27 *than one of whom shall be from the same political party.*

28 (3) *The Governor, the Speaker of the Assembly, and the Senate*
29 *Committee on Rules shall each appoint to the board three*
30 *representatives of the nonprofit community, at least one of which*
31 *shall be from the faith-based nonprofit community.*

32 (b) *The appointments to the board shall be made by February*
33 *1, 2007. Terms of the office shall be one year. Any vacancy that*
34 *occurs on the board shall be filled in the same manner as the*
35 *original appointment. The members of the board shall serve*
36 *without compensation.*

37 (c) *At its initial meeting, the board shall elect a chairperson.*

38 (d) *The board shall do both of the following:*

39 (1) *Provide direction, guidance, and oversight to the office.*

1 (2) Publish a report of its activities on or before the first day
2 of August of each year, and deliver copies of the report to the
3 Governor, the Speaker and Minority Leader of the Assembly, and
4 the President pro Tempore and Minority Leader of the Senate.

5 SECTION 1. Article 2.5 (commencing with Section 17545) is
6 added to Chapter 1 of Part 3 of Division 7 of the Business and
7 Professions Code, to read:

8
9 Article 2.5. Internet Free Gift Offers

10
11 17545. For purposes of this chapter, the following terms have
12 the following meanings:

13 (a) "Advertisement"
14 means any communication on the Internet that promotes or
15 solicits a consumer to redeem an Internet free gift offer.

16 (b) "California electronic mail address" or "California e-mail
17 address" has the meaning set forth in subdivision (b) of Section
18 17529.1.

19 (c) "Commercial e-mail advertisement" means any
20 communication transmitted to a California electronic mail
21 address or California e-mail address for the sole purpose of
22 promoting or soliciting a consumer to redeem an Internet free gift
23 offer.

24 (d) "Consumer" means an individual who resides in this state
25 and who uses a computer located in this state to redeem an
26 Internet free gift offer.

27 (e) "Disclosure statement" means a clear and conspicuous
28 statement of terms, conditions, and obligations, conveyed at the
29 outset of the offer, upon which receipt and retention of the
30 Internet free gift offer by the consumer are contingent.

31 (f) "Internet" has the meaning set forth in paragraph (6) of
32 subdivision (f) of Section 17538.

33 (g) "Internet free gift offer" means any advertisement or
34 commercial E-mail advertisement that offers a free gift or gifts to
35 a consumer in exchange for the consumer taking certain actions,
36 including, but not limited to, the purchasing of a product or
37 products or the referral of the gift offer to a separate unique
38 household, in order for the consumer to redeem the free gift
39 offer.

1 17545.1. ~~(a) Any advertisement or commercial e-mail~~
2 ~~advertisement promoting or soliciting an Internet free gift offer to~~
3 ~~consumers shall provide a disclosure statement.~~

4 ~~(b) The disclosure statement shall appear as soon as the~~
5 ~~consumer opens the link associated with the advertisement or as~~
6 ~~soon as the consumer opens the link contained within a~~
7 ~~commercial e-mail advertisement.~~

8 ~~(c) The disclosure statement shall contain a check-off box, to~~
9 ~~be marked by the consumer electronically, confirming that the~~
10 ~~consumer has read and agreed to the terms, conditions, and~~
11 ~~obligations before proceeding with the redemption of the Internet~~
12 ~~Free Gift Offer.~~

13 ~~(d) The disclosure statement shall include, but not be limited~~
14 ~~to, the following information:~~

15 ~~(1) The number of products that must be purchased before~~
16 ~~receiving the Internet free gift offer.~~

17 ~~(2) An approximation of the combined dollar amount of the~~
18 ~~purchases that must be made in order to receive the Internet free~~
19 ~~gift offer.~~

20 ~~(3) The telephone number and e-mail address of the company~~
21 ~~offering the Internet free gift offer.~~

22 ~~(4) An estimated length of time before the consumer will~~
23 ~~receive the Internet free gift offer.~~

24 ~~(5) The number of referrals to other separate unique~~
25 ~~households necessary to redeem the Internet free gift offer.~~

26 ~~(e) The disclosure statement shall not be set forth in a footnote~~
27 ~~of an advertisement or commercial e-mail advertisement.~~
28 ~~Referencing the footnote with an asterisk or other symbol placed~~
29 ~~next to the Internet free gift offer shall not exempt any~~
30 ~~advertisement or commercial e-mail advertisement from this~~
31 ~~requirement.~~

32 17545.4. ~~Notwithstanding any other provision of law, a~~
33 ~~violation of this article shall not be a crime.~~

34 17545.5. ~~The provisions of this article are severable. If any~~
35 ~~provision of this article or its application is held invalid, that~~
36 ~~invalidity shall not affect any other provision or application that~~
37 ~~can be given effect without the invalid provision or application.~~

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