

FIRST REGULAR SESSION

SENATE BILL NO. 166

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Pre-filed December 12, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0192S.02I

AN ACT

To repeal section 407.610, RSMo, and to enact in lieu thereof one new section relating to time-shares.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 407.610, RSMo, is repealed and one new section enacted
2 in lieu thereof, to be known as section 407.610, to read as follows:

407.610. 1. Any person who intends to use any promotional device or
2 promotional program, including any sweepstakes, gift award, drawing or display
3 booth, or any other such award or prize inducement items, to advertise, solicit
4 sales or sell any time-share period, time-share plan, or time-share property in the
5 state of Missouri or sell any tourist-related services as defined pursuant to
6 subsection [8] 9 of this section where a consumer is required to provide any
7 consideration other than monetary for such tourist-related services, shall notify
8 the Missouri attorney general in writing of this intention not less than fourteen
9 days prior to release of such materials to the public. Included with such notice
10 shall be an exact copy of each promotional device and promotional program to be
11 used. Each promotional device, promotional program, and the notice thereof shall
12 include the following information:

13 (1) A statement that the promotional device or promotional program is
14 being used for the purpose of soliciting sales of a time-share period, time-share
15 plan or time-share property;

16 (2) The date by which all such awards or other prize inducement items
17 will be awarded;

18 (3) The method by which all such items will be awarded;

19 (4) The odds of being awarded such items;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 (5) The manufacturer's suggested retail price of such items; and
21 (6) The names and addresses of each time-share plan or business entity
22 participating in the promotional device or promotional program.

23 **2. In the case of any promotional device or promotional program**
24 **to advertise, solicit sales, or sell any time-share period, time-share plan,**
25 **or time-share property in this state, the information required under**
26 **subsection 1 of this section for each promotional device or promotional**
27 **program, and the notice thereof, shall be provided in writing or**
28 **electronically to the prospective purchaser at least once within a**
29 **reasonable time period before a scheduled sales presentation to ensure**
30 **that the prospective purchaser receives the information prior to**
31 **attending such presentation. The required information need not be**
32 **included in every advertisement or other written, oral or electronic**
33 **communication provided or made to a prospective purchaser before a**
34 **scheduled sales presentation.**

35 **3.** Any material change in a promotional device or promotional program
36 previously submitted to the attorney general shall constitute a new promotional
37 device or promotional program and shall be resubmitted to the attorney general
38 with the notice thereof.

39 **[3.] 4.** It shall be a violation of section 407.020 for any person to:

40 (1) Fail to comply with the provisions of the notice requirements of this
41 section;

42 (2) Provide to the attorney general in the notice required by this section
43 any information that is false or misleading in a material manner;

44 (3) Represent to any person that the filing of the notice of the promotional
45 device or the promotional program constitute an endorsement or approval of the
46 promotional device or promotional program by the attorney general;

47 (4) Engage in any act or practice declared to be unlawful by section
48 407.020 in connection with the use of any promotional device or promotional
49 program or any advertisement, or sale of time-share plans, time-share periods or
50 time-share property.

51 **[4.] 5.** At least one of each prize featured in a promotional program shall
52 be awarded by the day and year specified in the promotion. When a promotion
53 promises the award of a certain number of each prize, such number of prizes shall
54 be awarded by the date and year specified in the promotion. A record shall be
55 maintained containing the names and addresses of winners of the prizes and the

56 record shall be made available, upon request, to the public, upon the payment of
57 reasonable reproduction costs. If a seller for any reason does not provide, at the
58 time of a site visitation or visitation to a time-share sales office, the inducement
59 gift which was promised, the seller shall deliver the gift, or an acceptable
60 substitute therefor agreed upon in writing, to the prospective purchaser or
61 purchaser no later than ten days following such visitation, or shall deliver instead
62 of such gift cash in an amount equal to the retail value of the gift.

63 [5.] 6. If a prospective purchaser or purchaser does not receive the gift
64 or the cash as provided in subsection [4] 5 of this section, he may bring an action
65 under the provisions of section 407.025. For purposes of actions brought
66 pursuant to this section, the term "actual damages", as used in section 407.025,
67 shall mean at least five times the cash retail value of the most expensive gift
68 offered, but shall not exceed one thousand dollars, in addition to such other
69 actual damages as may be determined by the evidence.

70 [6.] 7. The provisions of sections 407.600 to 407.630 shall not apply to a
71 person who has acquired a time-share period for his own occupancy and later
72 offers it for resale.

73 [7.] 8. If the sale of a time-share plan or of time-share property is subject
74 to the provisions of sections 407.600 to 407.630, such sale shall not be subject to
75 the provisions of chapter 339, RSMo.

76 [8.] 9. For the purposes of this section, the term "tourist-related services"
77 includes but is not limited to, selling or entering into contracts or other
78 arrangements under which a purchaser receives a premium, coupon or contract
79 for car rentals, lodging, transfers, entertainment, sightseeing or any service
80 reasonably related to air, sea, rail, motor coach or other medium of transportation
81 directly to the consumer.

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