

## SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-625, §1, Nov. 7, 1988, 102 Stat. 3205, provided that: "This Act [amending sections 1304 and 1307 of this title and section 3005 of Title 39, Postal Service, and enacting provisions set out as notes under sections 1304 and 1307 of this title] may be cited as the 'Charity Games Advertising Clarification Act of 1988'."

**§ 1302. Mailing lottery tickets or related matter**

Whoever knowingly deposits in the mail, or sends or delivers by mail:

Any letter, package, postal card, or circular concerning any lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance;

Any lottery ticket or part thereof, or paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance;

Any check, draft, bill, money, postal note, or money order, for the purchase of any ticket or part thereof, or of any share or chance in any such lottery, gift enterprise, or scheme;

Any newspaper, circular, pamphlet, or publication of any kind containing any advertisement of any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or containing any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes;

Any article described in section 1953 of this title—

Shall be fined under this title or imprisoned not more than two years, or both; and for any subsequent offense shall be imprisoned not more than five years.

(June 25, 1948, ch. 645, 62 Stat. 762; Oct. 31, 1951, ch. 655, §29, 65 Stat. 721; Pub. L. 87-218, §2, Sept. 13, 1961, 75 Stat. 492; Pub. L. 103-322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §336 (Mar. 4, 1909, ch. 321, §213, 35 Stat. 1129).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Venue provision was omitted as covered by sections 3231 and 3237 of this title.

Minor changes were made in arrangement and phraseology.

## AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$1,000" in last par.

1961—Pub. L. 87-218 inserted sixth par., relating to articles described in section 1953 of this title.

1951—Act Oct. 31, 1951, substituted a colon for a semicolon at end of opening clause.

**§ 1303. Postmaster or employee as lottery agent<sup>1</sup>**

Whoever, being an officer or employee of the Postal Service, acts as agent for any lottery office, or under color of purchase or otherwise, vends lottery tickets, or knowingly sends by

<sup>1</sup>Section catchline was not amended to conform to change made in the text by Pub. L. 91-375.

mail or delivers any letter, package, postal card, circular, or pamphlet advertising any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any ticket, certificate, or instrument representing any chance, share, or interest in or dependent upon the event of any lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes awarded by means of any such scheme, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 763; Pub. L. 91-375, §6(j)(10), Aug. 12, 1970, 84 Stat. 778; Pub. L. 103-322, title XXXIII, §330016(1)(B), Sept. 13, 1994, 108 Stat. 2146.)

## HISTORICAL AND REVISION NOTES

Based on title 18 U.S.C., 1940 ed., §337 (Mar. 4, 1909, ch. 321, §214, 35 Stat. 1130). Minor changes were made in phraseology.

## AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$100".

1970—Pub. L. 91-375 substituted "an officer or employee of the Postal Service" for "a postmaster or other person employed in the Postal Service".

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established thereby by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

**§ 1304. Broadcasting lottery information**

Whoever broadcasts by means of any radio or television station for which a license is required by any law of the United States, or whoever, operating any such station, knowingly permits the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes, shall be fined under this title or imprisoned not more than one year, or both.

Each day's broadcasting shall constitute a separate offense.

(June 25, 1948, ch. 645, 62 Stat. 763; Pub. L. 100-625, §3(a)(4), Nov. 7, 1988, 102 Stat. 3206; Pub. L. 103-322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

## HISTORICAL AND REVISION NOTES

Based on section 316 of title 47, U.S.C., 1940 ed., Telegraphs, Telephones, and Radiotelegraphs (June 19, 1934, ch. 652, §316, 48 Stat. 1088).

Words "upon conviction thereof" were deleted as surplusage since punishment can be imposed only after a conviction.

Minor changes were made in phraseology.

## CONSTITUTIONALITY

For information regarding constitutionality of this section, see reference to act June 19, 1934, ch. 652, §316 (on which this section is based), in Congressional Research Service, The Constitution of the United States of America: Analysis and Interpretation, Appendix 1,

Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000”.

1988—Pub. L. 100-625 inserted “or television” after “radio” in first sentence.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-625, §5, Nov. 7, 1988, 102 Stat. 3206, provided that: “The amendments made by this Act [amending this section and section 1307 of this title and section 3005 of Title 39, Postal Service] shall take effect 18 months after the date of the enactment of this Act [Nov. 7, 1988].”

### § 1305. Fishing contests

The provisions of this chapter shall not apply with respect to any fishing contest not conducted for profit wherein prizes are awarded for the specie, size, weight, or quality of fish caught by contestants in any bona fide fishing or recreational event.

(Added Aug. 16, 1950, ch. 722, §1, 64 Stat. 451.)

### § 1306. Participation by financial institutions

Whoever knowingly violates section 5136A<sup>1</sup> of the Revised Statutes of the United States, section 9A of the Federal Reserve Act, or section 20 of the Federal Deposit Insurance Act shall be fined under this title or imprisoned not more than one year, or both.

(Added Pub. L. 90-203, §5(a), Dec. 15, 1967, 81 Stat. 611; amended Pub. L. 101-73, title IX, §962(b), Aug. 9, 1989, 103 Stat. 502; Pub. L. 103-322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

#### REFERENCES IN TEXT

Section 5136A of the Revised Statutes of the United States, referred to in text, was renumbered section 5136B and a new section 5136A was added by Pub. L. 106-102, title I, §121(a), Nov. 12, 1999, 113 Stat. 1373. Sections 5136A and 5136B of the Revised Statutes are classified to sections 24a and 25a, respectively, of Title 12, Banks and Banking.

Section 9A of the Federal Reserve Act, referred to in text, is classified to section 339 of Title 12.

Section 20 of the Federal Deposit Insurance Act, referred to in text, is classified to section 1829a of Title 12.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000”.

1989—Pub. L. 101-73 struck out reference to section 410 of the National Housing Act.

#### EFFECTIVE DATE

Section effective Apr. 1, 1968, see section 6 of Pub. L. 90-203, set out as a note under section 25a of Title 12, Banks and Banking.

### § 1307. Exceptions relating to certain advertisements and other information and to State-conducted lotteries

(a) The provisions of sections 1301, 1302, 1303, and 1304 shall not apply to—

(1) an advertisement, list of prizes, or other information concerning a lottery conducted by

a State acting under the authority of State law which is—

(A) contained in a publication published in that State or in a State which conducts such a lottery; or

(B) broadcast by a radio or television station licensed to a location in that State or a State which conducts such a lottery; or

(2) an advertisement, list of prizes, or other information concerning a lottery, gift enterprise, or similar scheme, other than one described in paragraph (1), that is authorized or not otherwise prohibited by the State in which it is conducted and which is—

(A) conducted by a not-for-profit organization or a governmental organization; or

(B) conducted as a promotional activity by a commercial organization and is clearly occasional and ancillary to the primary business of that organization.

(b) The provisions of sections 1301, 1302, and 1303 shall not apply to the transportation or mailing—

(1) to addresses within a State of equipment, tickets, or material concerning a lottery which is conducted by that State acting under the authority of State law; or

(2) to an addressee within a foreign country of equipment, tickets, or material designed to be used within that foreign country in a lottery which is authorized by the law of that foreign country.

(c) For the purposes of this section (1) “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and (2) “foreign country” means any empire, country, dominion, colony, or protectorate, or any subdivision thereof (other than the United States, its territories or possessions).

(d) For the purposes of subsection (b) of this section “lottery” means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. “Lottery” does not include the placing or accepting of bets or wagers on sporting events or contests. For purposes of this section, the term a “not-for-profit organization” means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.

(Added Pub. L. 93-583, §1, Jan. 2, 1975, 88 Stat. 1916; amended Pub. L. 94-525, §1, Oct. 17, 1976, 90 Stat. 2478; Pub. L. 96-90, §1, Oct. 23, 1979, 93 Stat. 698; Pub. L. 100-625, §§2(a), (b), 3(a)(1), (3), Nov. 7, 1988, 102 Stat. 3205, 3206.)

#### REFERENCES IN TEXT

Section 501 of the Internal Revenue Code of 1986, referred to in subsec. (d), is classified to section 501 of Title 26, Internal Revenue Code.

#### AMENDMENTS

1988—Pub. L. 100-625, §3(a)(1), substituted “Exceptions relating to certain advertisements and other information and to State-conducted lotteries” for “State-conducted lotteries” in section catchline.

Subsec. (a). Pub. L. 100-625, §2(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as fol-

<sup>1</sup> See References in Text note below.