

# Sweepstakes 101

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# Sweepstakes 101

## What is a sweepstakes?

- If a prize is awarded based on CHANCE the promotion is considered a sweepstakes.
- If a prize is awarded based on SKILL the promotion is considered a contest.

## How is a sweepstakes different than a lottery?

With the exception of state run lotteries and authorized raffles, lotteries are illegal under state and federal laws. Generally, a lottery is a promotion in which all three of the following elements are present: 1) PRIZE; 2) CHANCE; and 3) CONSIDERATION.



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## What is CONSIDERATION?

- Consideration is a legal term which generally means an undertaking in response to a promise. There are generally two types of consideration in the context of sweepstakes promotions: **MONETARY** and **NON-MONETARY**.
- Monetary is typically the payment of money, such as the purchase of a product or a service or the direct payment of an entry fee.
- Non-monetary consideration is an entrant's expenditure of considerable time or effort.



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## Can I require the purchase of a product to enter?

- No. Requiring a purchase constitute monetary consideration. A legitimate sweepstakes (as opposed to a lottery) removes the CONSIDERATION element from the promotion.

## What is a AMOIE?

- An Alternative Mode Of Entry (AMOIE) removes the CONSIDERATION element from the promotion by providing a "No Purchase" method of entry.



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All sweepstakes must have official rules, which is the contract between the sponsor and the consumer. The rules **CANNOT** change once a sweepstakes has begun.

The official rules typically contain the following information:

- 1) a statement that "No Purchase is Necessary"
- 2) start and end dates
- 3) eligibility requirements (age, residency, exclusions)
- 4) method of entry (also include a "no purchase" method of entry)
- 5) any limitations on the number of entries by a person or household
- 6) odds of winning
- 7) description and approximate retail value (ARV) of the prize
- 8) how the winner will be selected and notified
- 9) restrictions on receiving the prize
- 10) sponsor's name and address



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## What are the registration requirements for a sweepstakes?

- In Florida, New York and Rhode Island sponsors are required to register all sweepstakes where the total retail value of all the prizes is greater than \$5,000 (\$500 in Rhode Island for retail store promotions).

## What are the bonding requirements for a sweepstakes?

- In Florida and New York a bond in an amount equal to the total value of the offered prizes must be submitted with the registration.



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## What About Canada?

- Canadian sweepstakes law, unlike U.S. law, requires that the CHANCE component be removed. Sponsors cannot use pure chance to determine who wins a sweepstakes. There must be at least some element of skill involved.
- In order remove the element of pure chance, sponsors narrow the field of potential winners by requiring a skill testing question as part of their promotion.
- Every entrant does not have the same chance to win; only those who at least pass the skill testing question are eligible to win prizes.



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## What Constitutes a Skill-Testing Question?

- Although sponsors are required to make the test somewhat challenging, most people can pass the skill testing questions without difficulty.
- The courts have agreed that a four-part mathematical test such as "155 plus 33 divided by 2 minus 12" is enough to qualify as a skill-testing question.



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# ANSWER

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## Next Steps

- HV/MG/GC Sweepstakes Rules Template
  - Full and Abbreviated Rules
  - Fill in the details
    - Name, Prize, Dates, Method of Entry, Canada
- Review with Legal (15-20 minutes)

THANK YOU!

