

FIRST REGULAR SESSION

# HOUSE BILL NO. 1072

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES WASSON (Sponsor), COOPER (120), SCHLOTTACH,  
SUTHERLAND, MAY AND PORTWOOD (Co-sponsors).

Read 1st time March 7, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2478L.01I

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### AN ACT

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

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*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Section A. Section 407.610, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.610, to read as follows: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 promotional program, including any sweepstakes, gift award, drawing or display booth, or any other such award or prize inducement items, to advertise, solicit sales or sell any time-share period, time-share plan, or time-share property in the state of Missouri or sell any tourist-related services as defined pursuant to subsection [8] **9** of this section where a consumer is required to provide any consideration other than monetary for such tourist-related services, shall notify the Missouri attorney general in writing of this intention not less than fourteen days prior to release of such materials to the public. Included with such notice shall be an exact copy of each promotional device and promotional program to be used. Each promotional device, promotional program, and the notice thereof shall include the following information:

- (1) A statement that the promotional device or promotional program is being used for the purpose of soliciting sales of a time-share period, time-share plan or time-share property;
- (2) The date by which all such awards or other prize inducement items will be awarded;
- (3) The method by which all such items will be awarded;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 15 (4) The odds of being awarded such items;  
16 (5) The manufacturer's suggested retail price of such items; and  
17 (6) The names and addresses of each time-share plan or business entity participating in  
18 the promotional device or promotional program.

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

28 **3.** Any material change in a promotional device or promotional program previously  
29 submitted to the attorney general shall constitute a new promotional device or promotional  
30 program and shall be resubmitted to the attorney general with the notice thereof.

31 [3.] **4.** It shall be a violation of section 407.020 for any person to:

- 32 (1) Fail to comply with the provisions of the notice requirements of this section;  
33 (2) Provide to the attorney general in the notice required by this section any information  
34 that is false or misleading in a material manner;  
35 (3) Represent to any person that the filing of the notice of the promotional device or the  
36 promotional program constitute an endorsement or approval of the promotional device or  
37 promotional program by the attorney general;  
38 (4) Engage in any act or practice declared to be unlawful by section 407.020 in  
39 connection with the use of any promotional device or promotional program or any advertisement,  
40 or sale of time-share plans, time-share periods or time-share property.

41 [4.] **5.** At least one of each prize featured in a promotional program shall be awarded by  
42 the day and year specified in the promotion. When a promotion promises the award of a certain  
43 number of each prize, such number of prizes shall be awarded by the date and year specified in  
44 the promotion. A record shall be maintained containing the names and addresses of winners of  
45 the prizes and the record shall be made available, upon request, to the public, upon the payment  
46 of reasonable reproduction costs. If a seller for any reason does not provide, at the time of a site  
47 visitation or visitation to a time-share sales office, the inducement gift which was promised, the  
48 seller shall deliver the gift, or an acceptable substitute therefor agreed upon in writing, to the  
49 prospective purchaser or purchaser no later than ten days following such visitation, or shall  
50 deliver instead of such gift cash in an amount equal to the retail value of the gift.

51 [5.] **6.** If a prospective purchaser or purchaser does not receive the gift or the cash as  
52 provided in subsection [4] **5** of this section, he may bring an action under the provisions of  
53 section 407.025. For purposes of actions brought pursuant to this section, the term "actual  
54 damages", as used in section 407.025, shall mean at least five times the cash retail value of the  
55 most expensive gift offered, but shall not exceed one thousand dollars, in addition to such other  
56 actual damages as may be determined by the evidence.

57 [6.] **7.** The provisions of sections 407.600 to 407.630 shall not apply to a person who has  
58 acquired a time-share period for his own occupancy and later offers it for resale.

59 [7.] **8.** If the sale of a time-share plan or of time-share property is subject to the  
60 provisions of sections 407.600 to 407.630, such sale shall not be subject to the provisions of  
61 chapter 339, RSMo.

62 [8.] **9.** For the purposes of this section, the term "tourist-related services" includes but  
63 is not limited to, selling or entering into contracts or other arrangements under which a purchaser  
64 receives a premium, coupon or contract for car rentals, lodging, transfers, entertainment,  
65 sightseeing or any service reasonably related to air, sea, rail, motor coach or other medium of  
66 transportation directly to the consumer.

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