

DE 87-08 - August 3, 1987

**Remuneration for Registering to Vote
Sections 102.031, 104.012, 104.045 and 104.061(2), F.S.**

To: Honorable Betty Carter, Supervisor of Elections, Orange County, One North Orange Avenue, Orlando, Florida 32801

Prepared by: Division of Elections

This is in response to your request for an opinion on the following questions:

1. a. May an elector be given a gift or discount ticket that is redeemable in merchandise (not cash) in recognition of his recent registration, and if permissible, must the certificate state that it is not redeemable for cash?
 - b. May any type of gift, other than cash, be awarded?
 - c. May gifts be awarded to electors who display their voter registration card?
 - d. May an organization whose members have been deputized as volunteer deputy registrars sponsor and conduct a voter-registration drive in the course of which consideration, not redeemable in cash, is given to a registrant? Also, may a prize be awarded to the person who registers the most voters?
2. Is it permissible to give an elector a gift certificate, or other consideration not redeemable in cash, either prior to or subsequent to the casting of his vote?
 3. Is it permissible to give an elector a discount merchant's certificate or paraphernalia such as bumperstickers and ink pens stating, "I Voted"? Is such distribution legal if done by a candidate? May the candidate distribute them at the polls in accordance with Section 102.031, Florida Statutes?

The statute most applicable to your questions is Section 104.012, Florida Statutes, which reads in part:

Any person who gives anything of value that is redeemable in cash to any person in consideration for his becoming a registered voter is guilty of a misdemeanor of the first degree.... (Emphasis added.)

As to question one:

- a. May an elector be given a gift or discount ticket that is redeemable in merchandise (not cash) in recognition of his recent registration, and if permissible, must the certificate state that it is not redeemable for cash?

Section 104.012, Florida Statutes, prohibits the giving of "anything of value that is redeemable in cash to any person in consideration for his becoming a registered voter...." (Emphasis added.) The inclusion of the phrase "redeemable in cash" is crucial. It is a general rule of statutory construction that whenever a specific item, or series of items, is included in a statute or definition, it is to the exclusion of all other items. Thayer v. State, 335 So.2d 815, 817 (Fla. 1976). Therefore, by expressly prohibiting the giving of anything of value redeemable in cash, the legislature excluded other types of consideration from the prohibition.

Although Section 104.012, Florida Statutes, prohibits a party from procuring a person's registration by offering anything of value that is redeemable in cash, no further prohibition should be inferred, and a gift or discount certificate may be given to a recent registrant. The certificate need not state that it is not redeemable in cash. However, in order to avoid any possible confusion or misunderstanding on the part of the registrant, it is recommended that the certificate clearly state the item for which the certificate may be redeemed.

b. May any type of gift, other than cash, be awarded?

Any type of gift may be awarded to an elector in consideration of becoming a registered voter as long as the gift is not redeemable for cash.

c. May gifts be awarded to electors who display their voter registration card?

Gifts may be given to electors displaying their voter registration cards as long as the gifts are not redeemable in cash.

d. May an organization whose members have been deputized as volunteer deputy registrars sponsor and conduct a voter registration drive in the course of which consideration, not redeemable in cash, is given to a registrant, and may a prize be awarded to the person who registers the most voters?

An organization whose members have been deputized as volunteer deputy registrars may sponsor and conduct a voter registration drive and give "prizes" to registrants as long as the "prizes" are not redeemable in cash. The Florida Statutes do not address whether prizes may be given to the person who registers the most voters. Since there are no statutory prohibitions against awarding a prize of any kind to the person who registers the most voters, prize may be awarded regardless of whether it is redeemable in cash.

As to question two:

Is it permissible to give an elector a gift certificate or other consideration not redeemable in cash, either prior to or subsequent to the casting of his vote.

Section 104.045, Florida Statutes, provides that any person who corruptly offers to vote for or against any candidate in return for pecuniary or other benefit, or accepts a pecuniary or other benefit in exchange for a promise to vote against, or to refrain from voting for or against any candidate is guilty

of a first degree misdemeanor. Therefore, it is permissible to give an elector a gift certificate or other consideration if the consideration is not intended to buy or corruptly influence another's vote.

As to question three:

Is it permissible to give an elector a discount merchant's certificate or paraphernalia; and if it is permissible, may a candidate distribute these and may a candidate distribute these at the polls?

Subject to the statutory restrictions contained in Section 102.031, Florida Statutes, a candidate has the same right of advocacy as the general citizenry. In DE 83-7, it was opined that the distribution of cigarette lighters, costing approximately 20 cents each, did not run afoul of Section 104.061(2), Florida Statutes, as constituting an attempt to buy a person's vote. Op. Div. Elect. 83-7 (April 22, 1983). There is no statutory prohibition against candidates distributing such materials at the polls if done in accordance with Section 102.031, Florida Statutes.

SUMMARY

Registrants may be given gifts as long as the gifts are not redeemable in cash. Organizations may give away gifts during a voter registration drive, within the guidelines stated above. Prizes may be given to the person who registers the most voters.

Candidates and others may also distribute gifts at the polls in accordance with Section 102.031, Florida Statutes, again subject to the above-mentioned guidelines. Gifts of substantial value would be subject under Section 104.045, Florida Statutes.