

# TOM UMBERG

SENATOR, 34<sup>TH</sup> SENATE DISTRICT

## SB 398: Criminalizing Election Lotteries



### SUMMARY

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SB 398 criminalizes the offer of a chance to win a lottery or similar prize-drawing contest to register to vote.

### BACKGROUND

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During the 2024 U.S. Presidential Election, South African billionaire Elon Musk founded “America PAC” to support Donald Trump in his candidacy for the White House. In October of 2024, Musk announced that America PAC would be giving away \$1 million in a lottery to someone in a swing state who signed a petition under the pretense of supporting for the First and Second Amendment of the U.S. Constitution. Voter registration in a swing state was a required prerequisite.

Vote buying is patently illegal federally and in every state. Musk and America PAC claimed legality on the basis that they weren’t technically paying someone to vote in a particular manner. However, it can still be inferred that America PAC created an alluring offer that likely incentivized constituents to register to vote if they had not already done so with a designated swing state.

Federal law explicitly prohibits anyone from knowingly or willingly paying or offering to pay or accepting payment either for registration to vote or for voting. Violators can be fined up to \$10,000 or imprisoned for not more than five years.

Federal law also does not expressly prohibit the use of lotteries as registration incentives. Currently, no such crime exists at the state level, limiting enforcements only through federal prosecution.

### SOLUTION

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SB 398 closes this potential loophole by making it a crime for a person to knowingly or willfully pay or offer to pay money or other valuable consideration to another person with the intent to induce the person to vote or to register to vote, or where the payment is contingent upon whether the person voted or the person’s voter registration status.

A violation of SB 398 would be punishable by imprisonment for up to five years, a fine of up to ten thousand dollars (\$10,000), or both, which conforms to federal law.

### SUPPORT

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California Clean Money Campaign  
California Civil Liberties Advocacy  
Indivisible CA: StateStrong  
Election Integrity Project

### FOR MORE INFORMATION

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Julia Hayes  
Email: [Julia.Hayes@sen.ca.gov](mailto:Julia.Hayes@sen.ca.gov)  
Phone: (916) 651-4034