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Elon Musk Appears to Be Breaking Wisconsin Law Against Vote Buying in Offering a Chance to Win \$1 Million to Anyone Who Voted in Wisconsin Supreme Court Race

By [RICK HASEN](#) on [March 28, 2025, 5:40 am](#) [📁 chicanery, vote buying](#)

During the 2024 elections, there was [a question whether Elon Musk was breaking federal law](#) in offering various incentives only to registered voters, including what was essentially a lottery open only to registered voters.

He's up to similar gimmicks in the upcoming, very expensive Wisconsin Supreme Court race, [promising](#), among other things as a prize for Wisconsin voters "who voted in the Supreme Court election" and attend his talk Sunday night "two checks for a million dollars each in appreciation for you taking the time to vote."



Elon Musk  
@elonmusk

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On Sunday night, I will give a talk in Wisconsin.

Entrance is limited to those who have voted in the Supreme Court election.

I will also personally hand over two checks for a million dollars each in appreciation for you taking the time to vote.

This is super important.

12:57 AM · 3/28/25 · **8.2M** Views

The federal vote-buying prohibition does not apply when there are no federal candidates on the ballot, and, as I explained in [my California Law Review article](#) on vote-buying, states differ in whether or not they allow payments for turning out to vote. (California does, for example.) No state allows payments to vote for or against a particular candidate or ballot measure, and Musk doesn't purport to do that.

Wisconsin law makes payment for turnout illegal. In particular, under section [12.11\(1m\)\(a\)\(2\)](#), it is a crime to “offer[...]anything of value...to...any elector...in order to induce any elector to: (a) Vote or refrain from voting.” This is separate and apart from a prohibition on voting or refraining to vote “for or against any particular person.” (Thanks to Nate Ela for [the pointer](#).)

I haven't yet researched Wisconsin caselaw applying the provision. But Musk's activities appear to violate the plain meaning of the statute. He's offering a chance to win a million dollars, with is a

thing of value, and it's only offered to people who have voted. One might say he's not inducing people, but instead rewarding them. I don't think this helps, because the statute likely covers rewarding as well—think of people who decide to vote in order to attend the talk for the lottery chance to win a million dollars.

[I wrote at Slate yesterday](#) about how the psychological barriers to the superwealthy trying to convert their economic power into political power seem to have collapsed. Musk is leading the charge, but he's unlikely to be the only one. At the least officials can go after the outright illegality.

Officials may not go after him. DOJ sent him a warning letter in the 2024 election season, but Trump's DOJ certainly won't prosecute him. And he got a ton of free publicity. So this may work out well for Musk. But that doesn't make it legal.

[Update:](#) So far I've found very little caselaw on this section of Wisconsin law. Here's a 2009 appellate case, [State v. Huff](#), with different facts but a broad understanding of the prohibition. There is also this 1950 Wisconsin AG opinion, which finds that "I voted" buttons are so de minimis as not to violate the predecessor to this statute.

Criminal Law—Elections—Giving of flag emblem of slight intrinsic value at the polls to persons who have already voted is not a violation of law.

October 16, 1950.

WILLIAM J. MCCAULEY,
District Attorney,
Milwaukee County.

You have asked whether it is permissible to give away at the polls a button which contains the facsimile of the flag of the United States and, next to the flag, the words "I voted."

As I understand it, it is contemplated that one of these buttons will be handed to each elector after he has cast his vote and this process is a part of a campaign to interest citizens in exercising their right of suffrage. The button contains no suggestion of any kind which could be characterized as partisan or advocacy of the election of any candidate. The button is of such slight intrinsic value that its significance is confined to being evidence that the wearer has participated in the election.

Sec. 346.09 (1) (a), Stats., provides that every person who shall give "any money or valuable consideration" to a voter corruptly on account of such voter having voted at an election shall be deemed guilty of bribery. It is clear that the plan you describe has no corrupt intent and the pin described could not be deemed valuable consideration under this statutory provision. Similar comments apply to the provisions of sec. 346.10.

Sec. 348.234 prohibits officers of elections from engaging in electioneering on the day on which the election is held and prohibits other persons from electioneering within 100 feet of any polling place. It is my opinion that the presenta-

tion of these buttons in the manner which you describe is not electioneering.

I have given consideration to secs. 348.479 to 348.484, an act prohibiting improper use, mutilation and disrespect of the flag of the United States. One provision prohibits the display of a flag when connected to "any word, figure, mark, picture, design, drawing or advertisement of any nature." Sec. 348.484 provides that the act shall be "so construed as to effectuate its general purpose." Clearly the inscription on this button relates to the exercise of one of the important rights of citizenship symbolized by the flag. It is entirely consistent with the dignity and honor of the flag, which it is the purpose of the act to protect. Furthermore, sec. 348.481 provides an exception for an ornament depicting the flag "with no design or words thereon and disconnected with any advertisement." In my opinion the display of the button will not violate these provisions.

In expressing this opinion it is assumed that any private individuals or groups making an expenditure for the purpose of purchasing these buttons have made or will make any reports which may be required of them under ch. 12

of the statutes.
TEF

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