

Elon Musk Is Committing Crimes —but It Doesn't Matter Because He's Rich

Musk and his PAC are effectively paying people in swing states to register to vote, and that is a clear violation of federal law.

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Elon Musk is—effectively—paying people to register to vote. This is a violation of federal election laws, and he should be prosecuted, fined, and imprisoned for his numerous violations. Unfortunately, this is Elon Musk we're talking about, and the person responsible for enforcing federal laws against him is Attorney General Merrick Garland—and all of that means that Musk will not be prosecuted, fined, or sent to prison. The rules, you see, are different for rich white Republicans who violate the laws than they are for anyone else. I thought everybody knew that by now.

What Musk is doing is not complicated, but there's enough misdirection in his scheme that it can be confusing to see what he's up to. So allow me to explain. Through his political action committee, Musk is offering \$1,000,000, lottery style, to people in “battleground” states—specifically, Pennsylvania, Georgia, Nevada, Arizona, Wisconsin, Michigan, and North Carolina—who sign his PAC's petition. The petition is a general pledge to “support” the First and Second Amendment (because of course a white South African whose family benefited from apartheid is somewhat more interested in supporting the Second Amendment than, say, the 13th, 14th, and 15th Amendments, which prevent people like Musk from doing here what people like Musk did in South Africa). If you sign the petition, you have a chance of winning a million bucks. Musk handed out the first check last weekend.

Paying people, or offering people a lottery ticket, to sign a petition is *legal*. That's fine. It's an exercise of free speech, at least in this ridiculous country that equates money with speech.

The problem with Musk's scheme is that, in order to get the money, you have to be registered to vote. By making voter registration key to getting the money, Musk is trying to induce people who are not registered to register to vote. That is *illegal*. As the elections law expert Rick Hasen [points out](#), paying people, bribing people, or giving people pretty much anything of monetary value to induce them to register to vote is a violation of federal law.

For those playing along at home, the law Hasen points to is [52 U.S.C. 10307\(c\)](#), which states: “Whoever knowingly or willfully gives false information as to his name, address or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, **or pays or offers to pay or accepts payment either for registration to vote** or for voting shall be fined not more than \$10,000 or imprisoned not more than five years, or both.” (Emphasis Hasen's.)

The Department of Justice has clarified that this law does not apply to, say, giving voters a ride to the polls. But it does include giving people cash, or liquor, or food stamps, or... “lottery chances” to induce them to register.

Musk is violating the law, but for that to matter somebody has to prosecute him for his violations, and that job, unfortunately, rests with Merrick Garland. Garland sent Musk and his PAC a letter earlier this week in which he “warned” that they “could” be violating federal law. Garland is reportedly monitoring and investigating the situation. Musk ignored the warning and [announced more winners](#).

I know there are still people who would like to defend Garland’s historic inability to enforce any laws against Republican political actors, but, honestly, Garland’s response is beyond pathetic. It takes a Google search and half an hour of Westlaw access to “investigate” whether “Hoo boy, register to vote and have a chance to win a million dollars” violates applicable federal standards. The Department of Justice’s own “[Election Crimes Manual](#)” explains that what Musk is doing is illegal. Garland need only “investigate” the rules written down by his own institution to figure out that Musk is in violation of the law.

The strongly worded letter Garland sent to Musk should have been a legal complaint, filed in court, and served to Musk while he was on stage handing out the freaking check.

But while Garland continues to be a national embarrassment, incapable of doing anything that might anger the Republican base, the sad reality is that even bringing the full force of the law against Musk would not stop his illegal actions. That’s because the full force of the law is incredibly weak in this instance and of little consequence to a rich white man.

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Astute readers will have noticed that the penalty for violating the law at issue is a fine of “not more than \$10,000” or imprisonment of “not more than five years, or both.” Musk is not going to go to jail because of this. We don’t put white people in jail for violating federal election laws, especially not when they are first-time offenders and the violation is as technical as this one is. (People, white people mainly, are going to object to my pointing out that Musk’s race is helping him get away with this, but please, how quickly do you think Oprah would find her ass in jail if she went to Houston and offered \$1,000,000 to anybody who registered to vote and signed her petition saying “I support Black women”?) Also: Violations of this nature are always, or almost always (see the above Oprah thought experiment) addressed with a fine, in the first instance.

That fine should be \$10,000. For Elon Musk. I’d say the fine is loose change for him, but the actual change you have rattling around in your pockets and hidden in your couch cushions is probably a greater percentage of your net worth than \$10,000 is to Elon Musk’s billions. Even if you fined him \$10,000 for *every* violation—that is, \$10,000 for every voter who registered for a chance to win his lotto—the fine would not deter his behavior one bit.

And so, Elon Musk is paying Republicans to register to vote in battleground states, and there’s nothing we can really do to stop him.

With that brute reality in mind, my actual advice is that Democrats in battleground states should also register to vote and sign Musk’s petition. Maybe you will win the \$1,000,000 bucks. Then you can get

up on stage, get your check, and rip open your shirt to show that you were a Harris voter all along. Everybody should have a chance to punk Elon Musk.