

MLM LAWS IN 50 STATES

Kevin Thompson
[MLM Attorney](#)
www.facebook.com/mlmlegal

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ALABAMA

[Alabama Code §8-19-5\(19\)](#)

The following deceptive acts or practices in the conduct of any trade or commerce are hereby declared to be unlawful:

(1) Passing off goods or services as those of another, provided that this section shall not prohibit the private labeling of goods or services.

(2) Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services.

(7) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.

(8) Disparaging the goods, services, or business of another by false or misleading representation of fact.

(18) Using or ***employing a chain referral sales plan*** in connection with the sale or offering for sale of goods, merchandise, or anything of value, involving a sales technique, plan, arrangement, or agreement in which the buyer or prospective buyer is offered the opportunity to purchase merchandise or goods and in connection with the purchase receives the seller's promise or representation that the buyer shall have the right to receive compensation or consideration in any form for furnishing to the seller the names of other prospective buyers, if the receipt of the compensation or consideration is contingent upon the occurrence of an event subsequent to the time the buyer purchased the goods, merchandise, or anything of value.

(19) Selling or offering to sell, either directly or associated with the sale of goods or services, a right to participation in a pyramid sales structure. As used herein, "***pyramid sales structure***" includes any plan or operation for the sale or distribution of goods, services, or other property wherein a person for consideration acquires the opportunity to receive a pecuniary benefit, which is based primarily upon the inducement of additional persons by that person, and others, regardless of number, to participate in the same plan or operation, and is not primarily contingent on the volume or quantity of goods, services, or other property sold or distributed. For purposes of this subdivision, "consideration" shall not include payments made for sales demonstration equipment and materials furnished on a nonprofit basis for use in making sales and not for resale wherein such payments amount to less than one hundred dollars (\$100) annually.

(20) In connection with any ***seller-assisted marketing plan***, either misrepresenting the amount or extent of earnings to result there from, or misrepresenting the extent or nature of the market for the goods or services, or both, sold or delivered in connection with the plan, or misrepresenting that the seller of the plan will repurchase all or part of the goods or services, or both, sold or delivered in connection with the plan, or failing to deliver goods or services, or both, within the time represented. As used herein, "seller-assisted marketing plan" includes any plan, scheme, or

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system in which for a consideration a buyer acquires goods or services, or both, together with a plan, scheme, or system for the resale of said goods or services, or both.

(Acts 1981, No. 81-355, p. 510, §5; Acts 1993, No. 93-203, §1; Act 99-583, p. 1327, §1; Act 2000-712, p. 1509, §1; Act 2002-496, p. 1276, §1.)

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ALASKA

[Alaska Statutes §45.50.471 \(b\) \(19\)](#)

Unlawful Acts and Practices.

(a) Unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce are declared to be unlawful.

(b) The terms "unfair methods of competition" and "unfair or deceptive acts or practices" include, but are not limited to, the following acts:

(19) using a chain referral sales plan by inducing or attempting to induce a consumer to enter into a contract by offering a rebate, discount, commission, or other consideration, contingent upon the happening of a future event, on the condition that the consumer either sells, or gives information or assistance for the purpose of leading to a sale by the seller of the same or related goods;

(20) selling or offering to sell a right of participation in a chain distributor scheme;

(21) selling, falsely representing, or advertising meat, fish or poultry which has been frozen as fresh food;

[Sec. 45.50.561\(c\).](#)

Definitions; short title.

(3) "chain distributor scheme" means a sales device whereby a person, upon condition that the person make an investment, is granted a license or right to solicit or recruit for profit one or more additional persons who are also granted a license or right upon condition of making an investment and may further perpetuate the chain of persons who are granted a license or right upon the condition of investment; a limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility for the license or right to solicit or recruit or the receipt of profit from these does not change the identity of the scheme as a chain distributor scheme; as used in this paragraph, "investment" means acquisition, for a consideration other than personal services, of tangible or intangible property, and includes but is not limited to franchises, business opportunities and services; "investment" does not include sales demonstration equipment and materials furnished at cost for use in making sales and not for resale;

ARIZONA

[Arizona Revised Statutes Annotated §44-1731 e.t ~ \(1956\)](#)

In this article, unless the context otherwise requires:

1. "Compensation" includes a payment based on a sale or distribution made to a person who either is a participant in a pyramid promotional scheme or has the right to become a participant upon payment.

2. "Consideration" means the payment of cash or the purchase of goods, services or intangible property but does not include:

(a) The purchase of goods or services furnished at cost to be used in making sales and not for resale.

(b) Time and effort spent in pursuit of sales or recruiting activities.

3. "Pyramid promotional scheme" means any plan or operation by which a participant gives consideration for the opportunity to receive compensation which is derived primarily from any person's introduction of other persons into participation in the plan or operation rather than from the sale of goods, services or intangible property by the participant or other persons introduced into the plan or operation.

[44-1732 Violation; classification](#)

A. Any person who violates any of the provisions of this article is guilty of a class 6 felony.

B. The attorney general or county attorney, or both, shall institute the criminal actions to enforce the provisions of this article.

C. An act or practice in violation of this article constitutes an unlawful practice under section 44-1522. The attorney general may investigate and take appropriate action as prescribed by chapter 10, article 7 of this title.

[44-1733 Sale or contract for sale of interest in pyramid promotional scheme voidable](#)

Any purchaser in a pyramid promotional scheme may, notwithstanding any agreement to the contrary, declare the related sale or contract for sale void, and he may bring an action in a court of competent jurisdiction to recover the consideration he paid to participate in the scheme. In such action the court shall, in addition to any judgment awarded to the plaintiff, require the defendant to pay interest, reasonable attorneys' fees and the costs of the action, less any money paid to the plaintiff as profit in the transaction.

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[44-1734 Scope of remedy](#)

A. The rights and remedies that this article grants to purchasers in pyramid promotional schemes are independent of and supplemental to any other right or remedy available to them in law or equity, and nothing contained herein shall be construed to diminish or to abrogate any such right or remedy.

B. The provisions of this article are in addition to all other causes of action, remedies and penalties available to this state.

[44-1735 Pyramid promotional scheme: prohibition; defenses excluded](#)

A. A person shall not establish, operate, advertise or promote a pyramid promotional scheme.

B. A limitation as to the number of persons who may participate or the presence of additional conditions affecting eligibility for the opportunity to receive compensation under the plan or operation does not change the identity of the scheme as a pyramid promotional scheme nor is it a defense under this article that a participant, on giving consideration, obtains any goods, services or intangible property in addition to the right to receive compensation.

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ARKANSAS

Title 4. Business and Commercial Law.

Subtitle 7. Consumer Protection.

Chapter 88. Deceptive Trade Practices.

Subchapter 1. General Provisions.

[§ 4-88-109. Pyramiding devices.](#)

(a) Every person who contrives, prepares, sets up, proposes, or operates any pyramiding device shall be guilty of an unlawful practice.

(b)(1) As used in this section, a pyramiding device shall mean any scheme whereby a participant pays valuable consideration for the chance to receive compensation primarily from introducing one (1) or more additional persons into participation in the scheme or for the chance to receive compensation when a person introduced by the participant introduces a new participant.

(2) "Compensation", as used in this section, does not mean or include payment based upon sales made to persons who are not participants in the scheme and who are not purchasing in order to participate in the scheme.

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CALIFORNIA

California Penal Code

[§319](#). A lottery is any scheme for the disposal or distribution of property by chance, among persons who have paid or promised to pay any valuable consideration for the chance of obtaining such property or a portion of it, or for any share or any interest in such property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name the same may be known.

[§320](#). Every person who contrives, prepares, sets up, proposes, or draws any lottery, is guilty of a misdemeanor.

[§321](#). Every person who sells, gives, or in any manner whatever, furnishes or transfers to or for any other person any ticket, chance, share, or interest, or any paper, certificate, or instrument purporting or understood to be or to represent any ticket, chance, share, or interest in, or depending upon the event of any lottery, is guilty of a misdemeanor.

[§322](#). Every person who aids or assists, either by printing, writing, advertising, publishing, or otherwise in setting up, managing, or drawing any lottery, or in selling or disposing of any ticket, chance, or share therein, is guilty of a misdemeanor.

[§325](#). All moneys and property offered for sale or distribution in violation of any of the provisions of this chapter are forfeited to the state, and may be recovered by information filed, or by an action brought by the Attorney General, or by any district attorney, in the name of the state. Upon the filing of the information or complaint, the clerk of the court must issue an attachment against the property mentioned in the complaint or information, which attachment has the same force and effect against such property, and is issued in the same manner as attachments issued from the superior courts in civil cases.

[§327](#). Every person who contrives, prepares, sets up, proposes, or operates any endless chain is guilty of a public offense, and is punishable by imprisonment in the county jail not exceeding one year or in state prison for 16 months, two, or three years. As used in this section, an "**endless chain**" means any scheme for the disposal or distribution of property whereby a participant pays a valuable consideration for the chance to receive compensation for introducing one or more additional persons into participation in the scheme or for the chance to receive compensation when a person introduced by the participant introduces a new participant. Compensation, as used in this section, does not mean or include payment based upon sales made to persons who are not participants in the scheme and who are not purchasing in order to participate in the scheme.

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COLORADO

Colorado Revised Statutes

[6-1-102\(9\)](#)

"Pyramid promotional scheme" means any program utilizing a pyramid or chain process by which a participant in the program gives a valuable consideration in excess of fifty dollars for the opportunity or right to receive compensation or other things of value in return for inducing other persons to become participants for the purpose of gaining new participants in the program. Ordinary sales of goods or services to persons who are not purchasing in order to participate in such a scheme are not within this definition.

[6-1-105\(1\)\(q\) Deceptive trade practices.](#)

(1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person:

(q) Contrives, prepares, sets up, operates, publicizes by means of advertisements, or promotes any pyramid promotional scheme;

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CONNECTICUT

[Connecticut General Statutes](#)

Definitions

- (a) "Advertisement" includes the attempt by publication, dissemination, solicitation or circulation, written or oral, to induce directly or indirectly, any person to enter into any obligation or acquire any title or interest in any merchandise;□ □
- (b) "Merchandise" includes any objects, wares, goods, commodities, intangibles, securities, bonds, debentures, stocks, real estate or services;□ □
- (c) "Services" includes any supply of accommodations, work, repair or other needs, instruction or education, including any type of training course in any field such as personality improvement, self motivation, salesmanship and similar fields;□ □
- (d) "Rights or privileges" includes the right or privilege to market, distribute, wholesale or retail, merchandise or services or to procure others to do so;□ □
- (e) "Procure" includes obtaining, providing, inducing, suggesting, soliciting, recruiting, training, supervising, advancing in position, or aiding or abetting any of the activities specified in this subsection;□ □
- (f) "Person" includes any natural person, or his legal representative, partnership, limited liability company, corporation, whether domestic or foreign, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof;□ □
- (g) "Sale" includes any sale, offer of sale or attempt to sell any merchandise, services, or rights or privileges for any consideration, or aiding or abetting any of the activities specified in this section;□ □
- (h) "Trade and commerce" means the advertising, offering for sale, sale or distribution of services and property, tangible or intangible, and any other article, commodity or thing of value wherever situate, and shall include any trade or commerce directly or indirectly affecting the people of this state;□ □
- (i) "Commissioner" means the Commissioner of Consumer Protection.

Sec. 42-145. Contingent consideration void.

The advertisement for sale, lease or rent, or the actual sale, lease or rental of any merchandise, service or rights or privileges at a price or with a rebate or payment or other consideration to the purchaser *which is contingent upon the procurement of prospective customers procured by the purchaser, or the procurement of sales, leases or rentals of merchandise, services, rights or*

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privileges, to other persons procured by the purchaser, is declared to be an unlawful practice rendering any obligation incurred by the buyer in connection therewith, completely void and a nullity. The rights and obligations of any contract relating to such contingent price, rebate or payment shall be interdependent and inseverable from the rights and obligations relating to the sale, lease or rental.

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DELAWARE

Delaware Code Annotated. Title 6, §2561 et seq.

[Subchapter VI. Pyramid or Chain Distribution Schemes](#)

§ 2561. Definitions.

As used in this subchapter:

(1) "Person" includes an individual, corporation, trust, estate, partnership, unincorporated association, or any other legal or commercial entity.

(2) "Pyramid or chain distribution scheme" means a sales device whereby a person, upon a condition that the person part with money, property or any other thing of value, is granted a franchise license, distributorship or other right which person may further perpetuate the pyramid or chain of persons who are granted such franchise, license, distributorship or right upon such condition. A limitation as to the number of persons who may participate, or the presence of additional conditions upon the eligibility for such a franchise, license, distributorship or other right recruit or upon the receipt of profits there from, does not change the identity of the scheme as a pyramid or chain distribution scheme.

§ 2562. Unlawful practice.

The use of a pyramid or chain sales distribution scheme in connection with the solicitation of investments in the form of money, property or any other thing of value is hereby declared to be an unlawful practice under § 2513 of this title.

§ 2563. Prohibition.

(a) No person, either directly or through the use of agents or other intermediaries, shall promote, sell, attempt to sell, offer or grant participation in a pyramid or chain distribution scheme.

(b) Whoever, directly or through the use of agents or intermediaries, violates subsection (a) of this section shall be fined not more than \$5,000, or imprisoned not more than 3 years, or both.

(c) The Superior Court shall have exclusive jurisdiction of offenses under this section.

§ 2564. Contracts void; civil liability.

(a) Any contract made in violation of § 2563 of this title shall be void and any person who, directly or through the use of agents or intermediaries, induces or causes another person to participate in a pyramid or chain distribution scheme shall be liable to that person in an amount equal to the sum of:

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(1) Twice the amount of any consideration paid; and

(2) In the case of any successful action to enforce such liability, the costs of the action together with a reasonable attorney's fee, as determined by the court.

(b) An action under this section may be brought in any court in this State otherwise having jurisdiction over the dollar amount being sought by way of recovery within 1 year from the date on which the consideration was paid.

FLORIDA

[Florida Statutes §849.091](#)

849.091 Chain letters, pyramid clubs, etc., declared a lottery; prohibited; penalties.

(1) The organization of any chain letter club, pyramid club, or other group organized or brought together under any plan or device whereby fees or dues or anything of material value to be paid or given by members thereof are to be paid or given to any other member thereof, which plan or device includes any provision for the increase in such membership through a chain process of new members securing other new members and thereby advancing themselves in the group to a position where such members in turn receive fees, dues, or things of material value from other members, is hereby declared to be a lottery, and whoever shall participate in any such lottery by becoming a member of, or affiliating with, any such group or organization or who shall solicit any person for membership or affiliation in any such group or organization commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A "pyramid sales scheme," which is any sales or marketing plan or operation whereby a person pays a consideration of any kind, or makes an investment of any kind, in excess of \$100 and acquires the opportunity to receive a benefit or thing of value which is not primarily contingent on the volume or quantity of goods, services, or other property sold in bona fide sales to consumers, and which is related to the inducement of additional persons, by himself or herself or others, regardless of number, to participate in the same sales or marketing plan or operation, is hereby declared to be a lottery, and whoever shall participate in any such lottery by becoming a member of or affiliating with, any such group or organization or who shall solicit any person for membership or affiliation in any such group or organization commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For purposes of this subsection, the term "consideration" and the term "investment" do not include the purchase of goods or services furnished at cost for use in making sales, but not for resale, or time and effort spent in the pursuit of sales or recruiting activities.

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GEORGIA

[Georgia Code Annotated §16-12-38 e.t ~](#)

Text of Statute

16-12-38.

(a) As used in this Code section, the term:

- (1) 'Compensation' means a payment of any money, thing of value, or financial benefit.
 - (2) 'Consideration' means the payment of cash or the purchase of goods, services, or intangible property, and does not include the purchase of goods or services furnished at cost to be used in making sales and not for resale, or time and effort spent in pursuit of sales or recruiting activities.
 - (3) 'Inventory' includes both goods and services, including company produced promotional materials, sales aids, and sales kits that the plan or operation requires independent salespersons to purchase.
 - (4) 'Inventory loading' means that the plan or operation requires or encourages its independent salespersons to purchase inventory in an amount which unreasonably exceeds that which the salesperson can expect to resell for ultimate consumption or to use or consume in a reasonable time period.
 - (5) 'Participant' means a person who joins a plan or operation.
 - (6) 'Person' means an individual, a corporation, a partnership, or any association or unincorporated organization.
 - (7) 'Promote' means to contrive, prepare, establish, plan, operate, advertise, or to otherwise induce or attempt to induce another person to be a participant.
 - (8) 'Pyramid promotional scheme' means any plan or operation in which a participant gives consideration for the right to receive compensation that is derived primarily from the recruitment of other persons as participants into the plan or operation rather than from the sale of goods, services, or intangible property to participants or by participants to others.
- (b)(1) No person may establish, promote, operate, or participate in any pyramid promotional scheme. A limitation as to the number of persons who may participate or the presence of additional conditions affecting eligibility for the opportunity to receive compensation under the plan does not change the identity of the plan as a pyramid promotional scheme. It is not a defense under this subsection that a person, on giving consideration, obtains goods, services, or intangible property in addition to the right to receive compensation.

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(2) Nothing in this Code section may be construed to prohibit a plan or operation, or to define a plan or operation as a pyramid promotional scheme, based on the fact that participants in the plan or operation give consideration in return for the right to receive compensation based upon purchases of goods, services, or intangible property by participants for personal use, consumption, or resale so long as the plan or operation does not promote or induce inventory loading and complies with the cancellation requirements of subsection (d) of Code Section 10-1-415.

(3) Any person who participates in a pyramid promotional scheme shall be guilty of a misdemeanor of a high and aggravated nature. Any person who establishes, promotes, or operates a pyramid promotional scheme shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than five years.

(4) Nothing in this Code section shall be construed so as to include a 'multilevel distribution company,' as defined in paragraph (6) of Code Section 10-1-410, which is operating in compliance with Part 3 of Article 15 of Chapter 1 of Title10.

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GUAM

§32201. Deceptive Trade Practices Unlawful.

(a) False, misleading, or deceptive acts or practices, including, but not limited to those listed in this chapter, are hereby declared unlawful and are subject to action by the Attorney General or any person as permitted pursuant to this chapter or other provisions of Guam law. A violation consisting of any act prohibited by this title is in itself actionable, and may be the basis for damages, rescission, or equitable relief. The provisions of this chapter are to be liberally construed in favor of the consumer, balanced with substantial justice, and violation of such provisions may be raised as a claim, defense, cross claim or counterclaim.

(b) The term false, misleading, or deceptive acts or practices includes, but is not limited to, the following acts by any person or merchant, which acts are hereby prohibited and declared illegal and contrary to public policy if committed by any person or merchant:

(15) Selling or offering to sell, either directly or associated with the sale of goods or services, a right of participation in a multi-level distributorship. As used herein, multi-level distributorship means a sales plan for the distribution of goods or services in which promises of rebate or payment are made to individuals, conditioned upon those individuals recommending or securing additional individuals to assume positions in the sales operation, and where the rebate or payment is not exclusively conditioned on or in relation to proceeds from the retail sales of goods, provided that nothing herein shall prohibit the sale of a sales or presentation kit to prospective salespersons for Five Hundred Dollars (\$500) or less; provided, that the kit is sold at not more than the actual cost to the seller, that no commission is paid on the sale of the kit, and that a full refund (less any demonstration products used) is offered to the buyer for thirty (30) days after the delivery of the kit if the buyer returns the kit to the seller, whether or not the kit is used; and provided further that if the kit was purchased on Guam the kit can be returned to a location in Guam and the refund immediately collected thereat and if purchased off-island can be returned to the place of purchase for the refund;

SOURCE: Subsection (c)(21) added by P.L. 22-34:1 (9/27/93).

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HAWAII

[Hawaii Revised Statutes §480-3.3](#)

Text of Statute

[§480-3.3] Endless chain schemes. A person engages in an unfair method of competition and an unfair or deceptive act or practice within the meaning of section 480-2 when, in the conduct of any trade or commerce, the person contrives, prepares, sets up, proposes, or operates any endless chain scheme. As used in this section, an endless chain scheme means any scheme for the disposal or distribution of property whereby a participant pays a valuable consideration for the chance to receive compensation for introducing one or more additional persons into participation in the scheme, or for the chance to receive compensation when a person introduced by the participant introduces a new participant. Compensation, as used in this section, does not mean or include payments based upon sales made to persons who are not participants in the scheme and who are not purchasing in order to participate in the scheme. [L 1970, c 28, §1; gen ch 1985]

IDAHO

[Idaho Code §18-3101 \(1947\)](#)

Text of Statute

18-3101. pyramid promotional schemes prohibited -- Penalties -- Sale of interest voidable -- Scope of remedy. (1) It is illegal and prohibited for any person, or any agent or employee thereof, to establish, promote, offer, operate, advertise or grant participation in any pyramid promotional scheme.

(2) As used in this section:

(a) "Appropriate inventory repurchase program" means a program by which a plan or operation repurchases, upon request at the termination of a participant's business relationship with the plan or operation and based upon commercially reasonable terms, current and marketable inventory purchased and maintained by the participant for resale, use or consumption, provided such plan or operation clearly describes the program in its recruiting literature, sales manual, or contracts with participants, including the manner in which the repurchase is exercised and disclosure of any inventory that is not eligible for repurchase under the program.

(b) "Commercially reasonable terms" means the repurchase of current and marketable inventory within twelve (12) months from the date of original purchase at not less than ninety percent (90%) of the original net cost to the participant, less appropriate set-offs and legal claims, if any. In the case of service products, the repurchase of such service products shall be on a pro rata basis, unless clearly disclosed otherwise to the participant, in order to qualify as "commercially reasonable terms."

(c) "Compensation" means a payment of any money, thing of value, or financial benefit.

(d) "Consideration" means a payment of any money, or the purchase of goods, services, or intangible property but shall not include:

1. The purchase of goods or services furnished at cost to be used in making sales and not for resale.

2. Time and effort spent in pursuit of sales or recruiting activities.

(e) "Current and marketable" includes inventory that, in the case of consumable or durable goods, is unopened, unused and within its commercially reasonable use of shelf-life period. In the case of services and intangible property, including internet sites, "current and marketable" means the unexpired portion of any contract or agreement. The term "current and marketable" does not include inventory that has been clearly described to the participant prior to purchase as a seasonal, discontinued, or special promotion product not subject to the plan or operation's inventory repurchase program.

(f) "Inventory" includes both goods and services, including company-produced promotional materials, sales aids and sales kits that the plan or operation requires independent salespersons to purchase.

(g) "Inventory loading" means that the plan or operation requires or encourages its independent

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salespersons to purchase inventory in an amount that unreasonably exceeds that which the salesperson can expect to resell for ultimate consumption, or to use or consume, in a reasonable time period.

(h) "Participant" means a natural person who joins a plan or operation.

(i) "Person" means a natural person, partnership, corporation, trust, estate, business trust, joint venture, unincorporated association, or any other legal or commercial entity.

(j) "Promote" means to contrive, prepare, establish, plan, operate, advertise or otherwise induce or attempt to induce another person to be a participant.

(k) "Pyramid promotional scheme" means any plan or operation in which a participant gives consideration for the right to receive compensation that is derived primarily from the recruitment of other persons as participants in the plan or operation rather than from the sales of goods, services or intangible property to participants or by participants to others.

(3) A limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility, or upon payment of anything of value by a person whereby the person obtains any other property in addition to the right to receive consideration, does not change the identity of the scheme as a pyramid promotional scheme.

(4) Any person, or any agent or employee thereof who willfully and knowingly promotes, offers, advertises, or grants participation in a pyramid promotional scheme shall be guilty of a felony.

(5) All pyramid promotional schemes offered by the same person, or agents or employees thereof, or any person controlled by or affiliated with such person, for the same type of consideration, at substantially the same period of time and for the same general purpose, shall be deemed to be one (1) integrated pyramid promotional scheme, even though such pyramid promotional schemes may be given different names or other designations.

(6) Nothing in this section or in any rule promulgated pursuant to this section shall be construed to prohibit a plan or operation, or to define such plan or operation as a pyramid promotional scheme, based upon the fact that participants in the plan or operation give consideration in return for the right to receive compensation based upon purchases of goods, services or intangible property by participants for personal use, consumption or resale, provided the plan or operation implements an appropriate inventory repurchase program and does not promote inventory loading.

(7) Any violation of this section shall also be deemed an unfair and deceptive practice in violation of the Idaho consumer protection act. Any person aggrieved by a violation of this section can recover monetary damages pursuant to the Idaho consumer protection act.

(8) The rights and remedies that are granted under the provisions of this section to purchasers in pyramid promotional schemes are independent of and in addition to any other right or remedy available to them in law or equity, and nothing contained herein shall be construed to diminish or abrogate any such right or remedy.

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ILLINOIS

[Illinois Compiled Statutes. ch. 815 para. 505/1\(g\), Chain Sales 505/2A](#)

Text of Statute

(815 ILCS 505/1) (from Ch. 121 1/2, par. 261)

Sec. 1. (a) The term "advertisement" includes the attempt by publication, dissemination, solicitation or circulation to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in any merchandise and includes every work device to disguise any form of business solicitation by using such terms as "renewal", "invoice", "bill", "statement", or "reminder", to create an impression of existing obligation when there is none, or other language to mislead any person in relation to any sought after commercial transaction.

(b) The term "merchandise" includes any objects, wares, goods, commodities, intangibles, real estate situated outside the State of Illinois, or services.

(c) The term "person" includes any natural person or his legal representative, partnership, corporation (domestic and foreign), company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof.

(d) The term "sale" includes any sale, offer for sale, or attempt to sell any merchandise for cash or on credit.

(e) The term "consumer" means any person who purchases or contracts for the purchase of merchandise not for resale in the ordinary course of his trade or business but for his use or that of a member of his household.

(f) The terms "trade" and "commerce" mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this State.

(g) The term "pyramid sales scheme" includes any plan or operation whereby a person in exchange for money or other thing of value acquires the opportunity to receive a benefit or thing of value, which is primarily based upon the inducement of additional persons, by himself or others, regardless of number, to participate in the same plan or operation and is not primarily contingent on the volume or quantity of goods, services, or other property sold or distributed or to be sold or distributed to persons for purposes of resale to consumers. For purposes of this subsection, "money or other thing of value" shall not include payments made for sales demonstration equipment and materials furnished on a nonprofit basis for use in making sales and not for resale.

(Source: P.A. 95?331, eff. 8?21?07.)

(815 ILCS 505/2A) (from Ch. 121 1/2, par. 262A)

Sec. 2A. (1) The use or employment of any chain referral sales technique, plan, arrangement or agreement whereby the buyer is induced to purchase merchandise upon the seller's promise or representation that if buyer will furnish seller names of other prospective buyers or like or identical merchandise that seller will contact the named prospective buyers and buyer will receive a reduction in the purchase price by means of a cash rebate, commission, credit toward balance due or any other consideration, which rebate, commission, credit or other consideration

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is contingent upon seller's ability to sell like or identical merchandise to the named prospective buyers, is declared to be an unlawful practice within the meaning of this Act.

(2) It is an unlawful practice within the meaning of this Act for any person, by himself or through others, to sell, offer to sell, or attempt to sell the right to participate in a pyramid sales scheme.

(Source: P.A. 83?808.)

INDIANA

[Indiana Code Annotated §24-5-O.5-2-9, 10](#)

Text of Statute

IC 24-5-0.5

Chapter 0.5. Deceptive Consumer Sales

Construction and purposes

Sec. 1. (a) This chapter shall be liberally construed and applied to promote its purposes and policies.

(b) The purposes and policies of this chapter are to:

(1) simplify, clarify, and modernize the law governing deceptive and unconscionable consumer sales practices;

(2) protect consumers from suppliers who commit deceptive and unconscionable sales acts; and

(3) encourage the development of fair consumer sales practices.

(Formerly: Acts 1971, P.L.367, SEC.1.) As amended by P.L.18-1997, SEC.2; P.L.1-2006, SEC.411.

Definitions

Sec. 2. (a) As used in this chapter:

(1) "Consumer transaction" means a sale, lease, assignment, award by chance, or other disposition of an item of personal property, real property, a service, or an intangible, except securities and policies or contracts of insurance issued by corporations authorized to transact an insurance business under the laws of the state of Indiana, with or without an extension of credit, to a person for purposes that are primarily personal, familial, charitable, agricultural, or household, or a solicitation to supply any of these things. However, the term includes the following:

(A) A transfer of structured settlement payment rights under IC 34-50-2.

(B) An unsolicited advertisement sent to a person by telephone facsimile machine offering a sale, lease, assignment, award by chance, or other disposition of an item of personal property, real property, a service, or an intangible.

(2) "Person" means an individual, corporation, the state of Indiana or its subdivisions or agencies, business trust, estate, trust, partnership, association, nonprofit corporation or organization, or cooperative or any other legal entity.

(3) "Supplier" means the following:

(A) A seller, lessor, assignor, or other person who regularly engages in or solicits consumer transactions, including soliciting a consumer transaction by using a telephone facsimile machine to transmit an unsolicited advertisement. The term includes a manufacturer,

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wholesaler, or retailer, whether or not the person deals directly with the consumer.

Acts constituting deceptive practices

Sec. 3. (a) The following acts, and the following representations as to the subject matter of a consumer transaction, made orally, in writing, or by electronic communication, by a supplier, are deceptive acts:

(1) That such subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the supplier knows or should reasonably know it does not have.

(2) That such subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not and if the supplier knows or should reasonably know that it is not.

(3) That such subject of a consumer transaction is new or unused, if it is not and if the supplier knows or should reasonably know that it is not.

(4) That such subject of a consumer transaction will be supplied to the public in greater quantity than the supplier intends or reasonably expects.

(5) That replacement or repair constituting the subject of a consumer transaction is needed, if it is not and if the supplier knows or should reasonably know that it is not.

(6) That a specific price advantage exists as to such subject of a consumer transaction, if it does not and if the supplier knows or should reasonably know that it does not.

(7) That the supplier has a sponsorship, approval, or affiliation in such consumer transaction the supplier does not have, and which the supplier knows or should reasonably know that the supplier does not have.

(8) That such consumer transaction involves or does not involve a warranty, a disclaimer of warranties, or other rights, remedies, or obligations, if the representation is false and if the supplier knows or should reasonably know that the representation is false.

(9) That the consumer will receive a rebate, discount, or other benefit as an inducement for entering into a sale or lease in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions, if earning the benefit, rebate, or discount is contingent upon the occurrence of an event subsequent to the time the consumer agrees to the purchase or lease.

(10) That the supplier is able to deliver or complete the subject of the consumer transaction within a stated period of time, when the supplier knows or should reasonably know the supplier could not. If no time period has been stated by the supplier, there is a presumption that the supplier has represented that the supplier will deliver or complete the subject of the consumer transaction within a reasonable time, according to the course of dealing or the usage of the trade.

Suppliers; deceptive and unconscionable acts

Sec. 10. (a) A supplier commits a deceptive act if the supplier gives any of the following representations, orally or in writing, or does any of the following acts:

(1) Either:

(A) solicits to engage in a consumer transaction without a permit or other license required by law;

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(B) solicits to engage in a consumer transaction if a permit or other license is required by law to engage in the consumer transaction and the supplier is not qualified to obtain the required permit or other license or does not intend to obtain the permit or other license; or

(C) engages in a consumer transaction without a permit or other license required by law.

(2) Commits a violation of IC 24-5-10.

(3) Contrives, prepares, sets up, operates, publicizes by means of advertisements, or promotes a pyramid promotional scheme.

(b) A supplier commits an unconscionable act that shall be treated the same as a deceptive act under this chapter if the supplier solicits a person to enter into a contract or agreement:

(1) that contains terms that are oppressively one sided or harsh;

(2) in which the terms unduly limit the person's remedies; or

(3) in which the price is unduly excessive;

and there was unequal bargaining power that led the person to enter into the contract or agreement unwillingly or without knowledge of the terms of the contract or agreement. There is a rebuttable presumption that a person has knowledge of the terms of a contract or agreement if the person signs a written contract.

As added by P.L.12-1986, SEC.7. Amended by P.L.251-1987, SEC.1; P.L.18-1997,

SEC.4.Actions and proceedings; damages; injunction; civil penalties; offer to cure

Sec. 4. (a) A person relying upon an uncured or incurable deceptive act may bring an action for the damages actually suffered as a consumer as a result of the deceptive act or five hundred dollars (\$500), whichever is greater. The court may increase damages for a willful deceptive act in an amount that does not exceed the greater of:

(1) three (3) times the actual damages of the consumer suffering the loss; or

(2) one thousand dollars (\$1,000).

Except as provided in subsection (j), the court may award reasonable attorney fees to the party that prevails in an action under this subsection. This subsection does not apply to a consumer transaction in real property, including a claim or action involving a construction defect (as defined in IC 32-27-3-1(5)) brought against a construction professional (as defined in IC 32-27-3-1(4)), except for purchases of time shares and camping club memberships. This subsection also does not apply to a violation of IC 24-4.7, IC 24-5-12, or IC 24-5-14. Actual damages awarded to a person under this section have priority over any civil penalty imposed under this chapter.

(b) Any person who is entitled to bring an action under subsection (a) on the person's own behalf against a supplier for damages for a deceptive act may bring a class action against such supplier on behalf of any class of persons of which that person is a member and which has been damaged by such deceptive act, subject to and under the Indiana Rules of Trial Procedure governing class actions, except as herein expressly provided. Except as provided in subsection (j), the court may award reasonable attorney fees to the party that prevails in a class action under this subsection, provided that such fee shall be determined by the amount of time reasonably expended by the attorney and not by the amount of the judgment, although the contingency of the fee may be considered. Any money or other property recovered in a class action under this

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subsection which cannot, with due diligence, be restored to consumers within one (1) year after the judgment becomes final shall be returned to the party depositing the same. This subsection does not apply to a consumer transaction in real property, except for purchases of time shares and camping club memberships. Actual damages awarded to a class have priority over any civil penalty imposed under this chapter.

(c) The attorney general may bring an action to enjoin a deceptive act. However, the attorney general may seek to enjoin patterns of **Limitation of actions**

Sec. 5. (a) No action may be brought under this chapter, except under section 4(c) of this chapter, unless (1) the deceptive act is incurable or (2) the consumer bringing the action shall have given notice in writing to the supplier within the sooner of (i) six (6) months after the initial discovery of the deceptive act, (ii) one (1) year following such consumer transaction, or (iii) any time limitation, not less than thirty (30) days, of any period of warranty applicable to the transaction, which notice shall state fully the nature of the alleged deceptive act and the actual damage suffered there from, and unless such deceptive act shall have become an uncured deceptive act.

(b) No action may be brought under this chapter except as expressly authorized in section 4(a), 4(b), or 4(c) of this chapter. Any action brought under this chapter may not be brought more than two (2) years after the occurrence of the deceptive act.

(Formerly: Acts 1971, P.L.367, SEC.1.) As amended by Acts 1982, P.L.152, SEC.4; P.L.211-1993, SEC.1; P.L.45-1995, SEC.17.

Application of law

Sec. 6. This chapter does not apply to an act or practice that is:

- (1) required or expressly permitted by federal law, rule, or regulation; or
- (2) required or expressly permitted by state law, rule, **Assurances of voluntary compliance**

Sec. 7. (a) In the administration of this chapter, the attorney general may accept an assurance of voluntary compliance with respect to any deceptive act from any person who has engaged in, is engaging in, or is about to engage in such deceptive act. The assurance of voluntary compliance may include a stipulation for the voluntary payment by the person of the costs of investigation or payment of an amount to be held in escrow pending the outcome of an action or as restitution to aggrieved consumers, or both. The assurance of voluntary compliance shall be in writing and shall be filed with and subject to the approval of the court having jurisdiction.

(b) The assurance of voluntary compliance shall not be considered an admission of a deceptive act for any purpose; however, any violation of the terms of the assurance constitutes prima facie evidence of a deceptive act. Matters thus closed may at any time be reopened by the attorney general for further proceedings in the public interest.

As added by Acts 1978, P.L.127, SEC.4. **Incurable deceptive act; civil penalty**

Sec. 8. A person who commits an incurable deceptive act is subject to a civil penalty of a fine of not more than five hundred dollars (\$500) for each violation. The attorney general, acting in the name of the state, has the exclusive right to petition for recovery of such a fine, and this fine may be recovered only in an action brought under section 4(c) of this chapter.

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As added by Acts 1978, P.L.127, SEC.5. Amended by Acts 1982, P.L.152, SEC.5. **Cooperative purchase supplier contracts; maximum duration; civil penalty**

Sec. 9. A supplier which is organized primarily to provide benefits to persons from the cooperative purchase of the subject of a consumer transaction shall not offer a contract for that purpose that is to be effective for more than five (5) years. A supplier that violates this section is subject to a civil penalty of a fine of not more than five hundred dollars (\$500) for each violation. The attorney general, acting in the name of the state, has the exclusive right to petition for recovery of such a fine, and this fine may be recovered only in an action brought under section 4(c) of this chapter.

As added by Acts 1978, P.L.127, SEC.6. Amended by Acts 1982, P.L.152, SEC.6.

(B) A person who contrives, prepares, sets up, operates, publicizes by means of advertisements, or promotes a pyramid promotional scheme.

(4) "Subject of a consumer transaction" means the personal property, real property, services, or intangibles offered or furnished in a consumer transaction.

(5) "Cure" as applied to a deceptive act, means either:

(A) to offer in writing to adjust or modify the consumer transaction to which the act relates to conform to the reasonable expectations of the consumer generated by such deceptive act and to perform such offer if accepted by the consumer; or

(B) to offer in writing to rescind such consumer transaction and to perform such offer if accepted by the consumer.

The term includes an offer in writing of one (1) or more items of value, including monetary compensation, that the supplier delivers to a consumer or a representative of the consumer if accepted by the consumer.

(6) "Offer to cure" as applied to a deceptive act is a cure that:

(A) is reasonably calculated to remedy a loss claimed by the consumer; and

(B) includes a minimum additional amount that is the greater of:

(i) ten percent (10%) of the value of the remedy under clause (A), but not more than four thousand dollars (\$4,000); or

(ii) five hundred dollars (\$500);

as compensation for attorney's fees, expenses, and other costs that a consumer may incur in relation to the deceptive act.

(7) "Uncured deceptive act" means a deceptive act:

(A) with respect to which a consumer who has been damaged by such act has given notice to the supplier under section 5(a) of this chapter; and

(B) either:

(i) no offer to cure has been made to such consumer within thirty (30) days after such notice; or

(ii) the act has not been cured as to such consumer within a reasonable time after the consumer's acceptance of the offer to cure.

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(8) "Incurable deceptive act" means a deceptive act done by a supplier as part of a scheme, artifice, or device with intent to defraud or mislead. The term includes a failure of a transferee of structured settlement payment rights to timely provide a true and complete disclosure statement to a payee as provided under IC 34-50-2 in connection with a direct or indirect transfer of structured settlement payment rights.

(9) "Pyramid promotional scheme" means any program utilizing a pyramid or chain process by which a participant in the program gives a valuable consideration exceeding one hundred

dollars (\$100) for the opportunity or right to receive compensation or other things of value in return for inducing other persons to become participants for the purpose of gaining new participants in the program. The term does not include ordinary sales of goods or services to persons who are not purchasing in order to participate in such a scheme.

(10) "Promoting a pyramid promotional scheme" means:

(A) inducing or attempting to induce one (1) or more other persons to become participants in a pyramid promotional scheme; or

(B) assisting another in promoting a pyramid promotional scheme.

(11) "Elderly person" means an individual who is at least sixty-five (65) years of age.

(12) "Telephone facsimile machine" means equipment that has the capacity to transcribe text or images, or both, from:

(A) paper into an electronic signal and to transmit that signal over a regular telephone line; or

(B) an electronic signal received over a regular telephone line onto paper.

(13) "Unsolicited advertisement" means material advertising the commercial availability or quality of:

(A) property;

(B) goods; or

(C) services;

that is transmitted to a person without the person's prior express invitation or permission, in writing or otherwise.

(b) As used in section 3(a)(15) of this chapter:

(1) "Directory assistance" means the disclosure of telephone number information in connection with an identified telephone service subscriber by means of a live operator or automated service.

(2) "Local telephone directory" refers to a telephone classified advertising directory or the business section of a telephone directory that is distributed by a telephone company or directory publisher to subscribers located in the local exchanges contained in the directory. The term includes a directory that includes listings of more than one (1) telephone company.

(3) "Local telephone number" refers to a telephone number that has the three (3) number prefix used by the provider of telephone service for telephones physically located within the area covered by the local telephone directory in which the number is listed. The term does not include long distance numbers or 800-, 888-, or 900- exchange numbers listed in a local telephone directory.

(Formerly: Acts 1971, P.L.367, SEC.1.) As amended by Acts 1982, P.L.152, SEC.1; P.L.12-1986, SEC.4; P.L.24-1989, SEC.10; P.L.233-1995, SEC.1; P.L.174-1997, SEC.1; P.L.18-1997, SEC.3; P.L.219-2001, SEC.1; P.L.165-2005, SEC.6; P.L.85-2006, SEC.2; P.L.1-2007, SEC.165.

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(11) That the consumer will be able to purchase the subject of the consumer transaction as advertised by the supplier, if the supplier does not intend to sell it.

(12) That the replacement or repair constituting the subject of a consumer transaction can be made by the supplier for the estimate the supplier gives a customer for the replacement or repair, if the specified work is completed and:

(A) the cost exceeds the estimate by an amount equal to or greater than ten percent (10%) of the estimate;

(B) the supplier did not obtain written permission from the customer to authorize the supplier to complete the work even if the cost would exceed the amounts specified in clause (A);

(C) the total cost for services and parts for a single transaction is more than seven hundred fifty dollars (\$750); and

(D) the supplier knew or reasonably should have known that the cost would exceed the estimate in the amounts specified in clause (A).

(13) That the replacement or repair constituting the subject of a consumer transaction is needed, and that the supplier disposes of the part repaired or replaced earlier than seventy-two (72) hours after both:

(A) the customer has been notified that the work has been completed; and

(B) the part repaired or replaced has been made available for examination upon the request of the customer.

(14) Engaging in the replacement or repair of the subject of a consumer transaction if the consumer has not authorized the replacement or repair, and if the supplier knows or should reasonably know that it is not authorized.

(15) The act of misrepresenting the geographic location of the supplier by listing a fictitious business name or an assumed business name (as described in IC 23-15-1) in a local telephone directory if:

(A) the name misrepresents the supplier's geographic location;

(B) the listing fails to identify the locality and state of the supplier's business;

(C) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the calling area covered by the local telephone directory; and

(D) the supplier's business location is located in a county that is not contiguous to a county in the calling area covered by the local telephone directory.

(16) The act of listing a fictitious business name or assumed business name (as described in IC 23-15-1) in a directory assistance database if:

(A) the name misrepresents the supplier's geographic location;

(B) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the local calling area; and

(C) the supplier's business location is located in a county that is not contiguous to a

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county in the local calling area.

(17) The violation by a supplier of IC 24-3-4 concerning cigarettes for import or export.

(18) The act of a supplier in knowingly selling or reselling a product to a consumer if the product has been recalled, whether by the order of a court or a regulatory body, or voluntarily by the manufacturer, distributor, or retailer, unless the product has been repaired or modified to correct the defect that was the subject of the recall.

(19) The violation by a supplier of 47 U.S.C. 227, including any rules or regulations issued under 47 U.S.C. 227.

(b) Any representations on or within a product or its packaging or in advertising or promotional materials which would constitute a deceptive act shall be the deceptive act both of the supplier who places such representation thereon or therein, or who authored such materials, and such other suppliers who shall state orally or in writing that such representation is true if such other supplier shall know or have reason to know that such representation was false.

(c) If a supplier shows by a preponderance of the evidence that an act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error, such act shall not be deceptive within the meaning of this chapter.

(d) It shall be a defense to any action brought under this chapter that the representation constituting an alleged deceptive act was one made in good faith by the supplier without knowledge of its falsity and in reliance upon the oral or written representations of the manufacturer, the person from whom the supplier acquired the product, any testing organization, or any other person provided that the source thereof is disclosed to the consumer.

(e) For purposes of subsection (a)(12), a supplier that provides estimates before performing repair or replacement work for a customer shall give the customer a written estimate itemizing as closely as possible the price for labor and parts necessary for the specific job before commencing the work.

(f) For purposes of subsection (a)(15), a telephone company or other provider of a telephone directory or directory assistance service or its officer or agent is immune from liability for publishing the listing of a fictitious business name or assumed business name of a supplier in its directory or directory assistance database unless the telephone company or other provider of a telephone directory or directory assistance service is the same person as the supplier who has committed the deceptive act.

(g) For purposes of subsection (a)(18), it is an affirmative defense to any action brought under this chapter that the product has been altered by a person other than the defendant to render the product completely incapable of serving its original purpose.

(Formerly: Acts 1971, P.L.367, SEC.1.) As amended by Acts 1978, P.L.127, SEC.2; Acts 1982, P.L.153, SEC.1; Acts 1982, P.L.152, SEC.2; P.L.16-1983, SEC.16; P.L.239-1985, SEC.1; P.L.12-1986, SEC.5; P.L.24-1989, SEC.11; P.L.174-1997, SEC.2; P.L.21-2000, SEC.11; P.L.70-2002, SEC.1; P.L.85-2006, SEC.3; P.L.1-2009, SEC.137.

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incurable deceptive acts with respect to consumer transactions in real property. In addition, the court may:

- (1) issue an injunction;
 - (2) order the supplier to make payment of the money unlawfully received from the aggrieved consumers to be held in escrow for distribution to aggrieved consumers;
 - (3) order the supplier to pay to the state the reasonable costs of the attorney general's investigation and prosecution related to the action; and
 - (4) provide for the appointment of a receiver.
- (d) In an action under subsection (a), (b), or (c), the court may void or limit the application of contracts or clauses resulting from deceptive acts and order restitution to be paid to aggrieved consumers.
- (e) In any action under subsection (a) or (b), upon the filing of the complaint or on the appearance of any defendant, claimant, or any other party, or at any later time, the trial court, the supreme court, or the court of appeals may require the plaintiff, defendant, claimant, or any other party or parties to give security, or additional security, in such sum as the court shall direct to pay all costs, expenses, and disbursements that shall be awarded against that party or which that party may be directed to pay by any interlocutory order by the final judgment or on appeal.
- (f) Any person who violates the terms of an injunction issued under subsection (c) shall forfeit and pay to the state a civil penalty of not more than fifteen thousand dollars (\$15,000) per violation. For the purposes of this section, the court issuing an injunction shall retain jurisdiction, the cause shall be continued, and the attorney general acting in the name of the state may petition for recovery of civil penalties. Whenever the court determines that an injunction issued under subsection (c) has been violated, the court shall award reasonable costs to the state.
- (g) If a court finds any person has knowingly violated section 3 or 10 of this chapter, other than section 3(a)(19) of this chapter, the attorney general, in an action pursuant to subsection (c), may recover from the person on behalf of the state a civil penalty of a fine not exceeding five thousand dollars (\$5,000) per violation.
- (h) If a court finds that a person has violated section 3(a)(19) of this chapter, the attorney general, in an action under subsection (c), may recover from the person on behalf of the state a civil penalty as follows:
- (1) For a knowing or intentional violation, one thousand five hundred dollars (\$1,500).
 - (2) For a violation other than a knowing or intentional violation, five hundred dollars (\$500).

A civil penalty recovered under this subsection shall be deposited in the consumer protection division telephone solicitation fund established by IC 24-4.7-3-6 to be used for the administration and enforcement of section 3(a)(19) of this chapter.

(i) An elderly person relying upon an uncured or incurable deceptive act, including an act related to hypnotism, may bring an action to recover treble damages, if appropriate.

(j) An offer to cure is:

- (1) not admissible as evidence in a proceeding initiated under this section unless the offer to cure is delivered by a supplier to the consumer or a representative of the consumer before the supplier files the supplier's initial response to a complaint; and
- (2) only admissible as evidence in a proceeding initiated under this section to prove that a supplier is not liable for attorney's fees under subsection (k).

If the offer to cure is timely delivered by the supplier, the supplier may submit the offer to cure as evidence to prove in the proceeding in accordance with the Indiana Rules of Trial Procedure

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that the supplier made an offer to cure.

(k) A supplier may not be held liable for the attorney's fees and court costs of the consumer that are incurred following the timely delivery of an offer to cure as described in subsection (j) unless the actual damages awarded, not including attorney's fees and costs, exceed the value of the offer to cure.

(Formerly: Acts 1971, P.L.367, SEC.1.) As amended by Acts 1978, P.L.127, SEC.3; Acts 1982, P.L.152, SEC.3; P.L.12-1986, SEC.6; P.L.3-1989, SEC.141; P.L.24-1989, SEC.12; P.L.233-1995, SEC.2; P.L.165-2005, SEC.7; P.L.222-2005, SEC.33; P.L.85-2006, SEC.4.

regulation, or local ordinance.

(Formerly: Acts 1971, P.L.367, SEC.1.) As amended by P.L.1-2006, SEC.412.

IOWA

[Iowa Code Annotated §714.16.2.b](#)

Text of Statute

714.16.2 *b*. The advertisement for sale, lease or rent, or the actual sale, lease, or rental of any merchandise at a price or with a rebate or payment or other consideration to the purchaser which is contingent upon the procurement of prospective customers provided by the purchaser, or the procurement of sales, leases, or rentals to persons suggested by the purchaser, is declared to be an unlawful practice rendering any obligation incurred by the buyer in connection therewith, completely void and a nullity. The rights and obligations of any contract relating to such contingent price, rebate, or payment shall be interdependent and inseverable from the rights and obligations relating to the sale, lease, or rental.

KANSAS

[Kansas Statutes Annotated §21-3762](#)

Text of Statute

21-3762. Establishing, operating, advertising or promoting a pyramid promotional scheme. (a) As used in this section, "pyramid promotional scheme" means any plan or operation by which a participant gives consideration for the opportunity to receive compensation which is derived primarily from any person's introduction of other persons into participation in the plan or operation rather than from the sale of goods, services or intangible property by the participant or other persons introduced into the plan or operation.

(b) Establishing, operating, advertising or promoting a pyramid promotional scheme shall be a severity level 9, nonperson felony.

(c) A limitation as to the number of persons who may participate or the presence of additional conditions affecting eligibility for the opportunity to receive compensation under the plan or operation does not change the identity of the scheme as a pyramid promotional scheme nor is it a defense under this section that a participant, on giving consideration, obtains any goods, services or intangible property in addition to the right to receive compensation.

(d) The attorney general, or county attorney or district attorney, or both, may institute criminal action to prosecute this offense.

(e) This section shall be part of and supplemental to the Kansas criminal code.

History: L. 1997, ch. 178, § 1; May 22.

KENTUCKY

[Kentucky Revised Statutes §367.830](#)

Text of Statute

367.830 Definitions.

Unless the context otherwise requires:

- (1) "Participant" shall include, but is not limited to, those who give consideration in order to participate in the pyramid distribution plan;
- (2) "Person" means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, or any other legal entity;
- (3) "Promotes" means inducing one (1) or more other persons to become a participant;
- (4) "Pyramid distribution plan" means any plan, program, device, scheme, or other process by which a participant gives consideration for the opportunity to receive compensation or things of value in return for inducing other persons to become participants in the program;
- (5) "Compensation" means payment of any money, thing of value, or financial benefit conferred in return for inducing others to become participants in the pyramid distribution plan. Compensation does not include payment based on sales of goods or services by the person or by other participants in the plan to anyone, including a participant in the plan, who is purchasing the goods or services for actual use or consumption; and
- (6) "Consideration" means the payment of cash or the purchase of goods, services, or intangible property but does not include the purchase of goods or services furnished at cost to be used in making sales and not for resale, nor does it include time and effort spent in pursuit of sales or recruiting activities.

Effective:

Created 1986 Ky. Acts ch. 184, sec. 1, effective July 15, 1986.

July 15, 1986

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LOUISIANA

[Louisiana Revised Statutes Annotated §51:361](#)

Text of Statute

§361. Definitions

As used in this Subpart:

(1) "Compensation" means the payment of money, a thing of value, or any financial benefit. Compensation does not include:

(a) Payment to participants based upon sales of products purchased for actual use or consumption, including products used or consumed by participants in the plan.

(b) Payment to participants under reasonable commercial terms.

(2) "Consideration" means the payment of cash or purchase of goods, services, or intangible property. Consideration does not include:

(a) Purchase of products furnished at cost to be used in making sales and not for resale.

(b) Purchase of products where the seller offers to repurchase the participant's products under reasonable commercial terms.

(c) Participant's time and effort in pursuit of sales or recruiting activities.

(3) "Participant" means a person who contributes money into a pyramid promotional scheme.

(4) "Person" means an individual, a corporation, a partnership, or any association, or unincorporated organization.

(5) "Promote" means to contrive, direct, establish, or operate a pyramid promotional scheme.

(6) "Pyramid promotional scheme" means any plan or operation by which a participant gives consideration for the opportunity to receive compensation which is derived primarily from the person's introduction of other persons into a plan or operation rather than from the sale of goods, services, or intangible property by the participant or other persons introduced into the plan or operation.

(7) "Reasonable commercial terms" includes repurchase by the seller, at the participant's request, and upon termination of the business relationship or contract with the seller, of all unencumbered products purchased by the participant from the seller within the previous twelve months which are unused and in commercially resalable condition, provided that repurchase by the seller shall be for not less than ninety percent of the actual amount paid by the participant to

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the seller of the products, less any consideration received by the participant for purchase of the products which are being returned. A product shall not be deemed non-resalable solely because the product is no longer marketed by the seller, unless it is clearly disclosed to the participant at the time of the sale that the product is a seasonal, discontinued, or special promotional product, and not subject to the repurchase obligation.

Acts 1997, No. 379, §1; Acts 2001, No. 837, §1.

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MAINE

[Maine Revised Statutes Title 17, §2305](#)

Text of Statute

§2305. Multi-level distributorships, pyramid clubs, etc., declared a lottery; prohibited; penalties

The organization of any multi-level distributorship arrangement, pyramid club or other group, organized or brought together under any plan or device whereby fees or dues or anything of material value to be paid or given by members thereof are to be paid or given to any other member thereof who has been required to pay or give anything of material value for the right to receive such sums, with the exception of payments based exclusively on sales of goods or services to persons who are not participants in the plan and who are not purchasing in order to participate in the plan, which plan or device includes any provision for the increase in such membership through a chain process of new members securing other new members and thereby advancing themselves in the group to a position where such members in turn receive fees, dues or things of material value from other members, is declared to be a lottery, and whoever shall organize or participate in any such lottery by organizing or inducing membership in any such group or organization shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 11 months, or by both. [1971, c. 312, (NEW).]

A violation of this section shall constitute a violation of Title 5, chapter 10, Unfair Trade Practices Act. [1971, c. 312, (NEW).]

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MARYLAND

[Maryland Annotated Code Criminal Law §8-404](#)

Text of Statute

§ 8-404.

- (a) (1) In this section the following words have the meanings indicated.
- (2) "Compensation" includes payment based on a sale or distribution made to a person who:
- (i) is a participant in a plan or operation; or
 - (ii) on making a payment, is entitled to become a participant.
- (3) "Consideration" does not include:
- (i) payment for purchase of goods or services furnished at cost for use in making sales to persons who are not participants in the scheme and who are not purchasing in order to participate in the scheme;
 - (ii) time or effort spent in pursuit of sales or recruiting activities; or
 - (iii) the right to receive a discount or rebate based on the purchase or acquisition of goods or services by a bona fide cooperative buying group or association.
- (4) "Promote" means to induce one or more persons to become a participant.
- (5) "Pyramid promotional scheme" means a plan or operation by which a participant gives consideration for the opportunity to receive compensation to be derived primarily from any person's introduction of others into participation in the plan or operation rather than from the sale of goods, services, or other intangible property by the participant or others introduced into the plan or operation.
- (b) A person may not establish, operate, advertise, or promote a pyramid promotional scheme.
- (c) It is not a defense to a prosecution under this section that:
- (1) the plan or operation limits the number of persons who may participate or limits the eligibility of participants; or
 - (2) on payment of anything of value by a participant, the participant obtains any other property in addition to the right to receive compensation.
- (d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$10,000 or both.

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MASSACHUSETTS

[Massachusetts Annotated Laws Ch. 93, §69 \(d\)](#)

Text of Statute

Section 69. (a) As used in this section the term “multi-level distribution company” shall mean any person, firm, corporation or other business entity which distributes for a valuable consideration, goods or services through independent agents, contractors or distributors, at different levels, wherein participants in the marketing program may recruit other participants, and wherein commissions, cross-commissions, bonuses, refunds, discounts, dividends or other considerations in the marketing program are or may be paid as a result of the sale of such goods and services or the recruitment, actions or performances of additional participants.

(b) Every multi-level distribution company shall provide in its contract of participation that such contract may be cancelled for any reason at any time by a participant upon notification in writing to the company of his election to cancel. If the participant has purchased products while the contract of participation was in effect, all unencumbered products in a resaleable condition then in the possession of the participant shall be repurchased. The repurchase shall be at a price of not less than ninety per cent of the original net cost to the participant returning such goods, taking into account any sales made by or through such participant prior to notification to the company of the election to cancel.

(c) No multi-level distribution company, nor any participant, shall require participants in its marketing program to purchase products or services or pay any other consideration in order to participate in the marketing program unless such products or services are in reasonable quantities and unless it agrees: (1) to repurchase all or part of any products which are unencumbered and in a resaleable condition at a price of not less than ninety per cent of the original net cost to the participant; (2) to repay not less than ninety per cent of the original net cost of any services purchased by the participant; or (3) to refund not less than ninety per cent of any other consideration paid by the participant in order to participate in the marketing program.

(d) No multi-level distribution company or participant in its marketing program shall: (1) operate or, directly or indirectly, participate in the operation of any multi-level marketing program wherein the financial gains to the participants are primarily dependent upon the continued, successive recruitment of other participants and where retail sales are not required as a condition precedent to realization of such financial gains; (2) offer to pay, pay or authorize the payment of any finder’s fee, bonus, refund, override, commission, cross-commission, dividend or other consideration to any participants in a multi-level marketing program solely for the solicitation or recruitment of other participants therein; (3) offer to pay, pay or authorize the payment of any finder’s fee, bonus, refund, override, commission, cross-commission, dividend or other consideration to any participants in a multi-level marketing program in connection with the sale of any product or service unless such participant performs a bona fide and essential supervisory, distributive, selling or soliciting function in the sale or delivery of such product or services to the ultimate consumer; or (4) offer to pay, pay or authorize the payment of any finder’s fee, bonus, refund, override, commission, cross-commission, dividend or other consideration to any

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participant where payment thereof is or would be dependent on the element of chance dominating over the skill or judgment of such participant, or where no amount of judgment or skill exercised by the participant has any appreciable effect upon any finder's fee, bonus, refund, override, commission, cross-commission, dividend or other consideration which the participant may receive, or where the participant is without that degree of control over the operation of such plan as to enable him substantially to affect the amount of finder's fee, bonus, refund, override, commission, cross-commission, dividend or other consideration which he may receive or be entitled to receive.

(e) Multi-level distribution companies shall not represent, directly or indirectly, that participants in a multi-level marketing program will earn or receive any stated gross or net amount, or represent in any manner, the past earnings of participants; provided, however, that a written or verbal description of the manner in which the marketing plan operates shall not, standing alone, constitute a representation of earnings, past or future. Multi-level distribution companies shall not represent, directly or indirectly, that additional distributors or sales personnel are easy to secure or retain, or that all or substantially all participants will succeed.

(f) Each multi-level distribution company numbering among its participants any resident of the commonwealth shall annually file with the attorney general a statement giving notice of this fact and designating the state secretary its agent for service of process for any alleged violation of this section.

(g) Any violation of the provisions of this section shall constitute an unlawful method, act or practice within the meaning of clause (a) of section two of chapter ninety-three A.

MICHIGAN

[Michigan Compiled Ann. §445.1528](#)

Text of Statute

FRANCHISE INVESTMENT LAW (EXCERPT)
Act 269 of 1974

445.1528 Pyramid or chain promotion or distribution.

Sec. 28.

(1) A person may not offer or sell any form of participation in a pyramid or chain promotion. A pyramid or chain promotion is any plan or scheme or device by which (a) a participant gives a valuable consideration for the opportunity to receive compensation or things of value in return for inducing other persons to become participants in the program or (b) a participant is to receive compensation when a person introduced by the participant introduces one or more additional persons into participation in the plan, each of whom receives the same or similar right, privilege, license, chance, or opportunity.

(2) A pyramid or chain promotion is declared to be illegal and against the public policy of the state. Any contract made in violation of this section is voidable at the sole option of the purchaser.

(3) The department shall not accept for filing a franchise which involves a pyramid or chain distribution contrary to the laws of this state.

MINNESOTA

[Minnesota Statutes Annotated §325F .69, Subd. 2](#)

Text of Statute

325F.69 Unlawful practices.

Subdivision 1. **Fraud, misrepresentation, deceptive practices.** The act, use, or employment by any person of any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoined as provided in section 325F.70.

Subd. 2. **Referral and chain referral selling prohibited.**

(1) With respect to any sale or lease the seller or lessor may not give or offer a rebate or discount or otherwise pay or offer to pay value to the buyer or lessee as an inducement for a sale or lease in consideration of the buyer's or lessee's giving to the seller or lessor the names of prospective purchasers or lessees, or otherwise aiding the seller or lessor in making a sale or lease to another person, if the earning of the rebate, discount or other value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to buy or lease.

(2) (a) With respect to any sale or lease, it shall be illegal for any seller or lessor to operate or attempt to operate any plans or operations for the disposal or distribution of property or franchise or both whereby a participant gives or agrees to give a valuable consideration for the chance to receive something of value for inducing one or more additional persons to give a valuable consideration in order to participate in the plan or operation, or for the chance to receive something of value when a person induced by the participant induces a new participant to give such valuable consideration including such plans known as chain referrals, pyramid sales, or multilevel sales distributorships.

(b) The phrase "something of value" as used in paragraph (a) above, does not mean or include payment based upon sales made to persons who are not purchasing in order to participate in the prohibited plan or operation.

(3) If a buyer or lessee is induced by a violation of this subdivision to enter into a sale or lease, the agreement is unenforceable and the buyer or lessee has the option to rescind the agreement with the seller or lessor and, upon tendering the property received, or what remains of it, obtain full or in the case of remains, a proportional restitution of all sums paid, or retain the goods delivered and the benefit of any services performed without any further obligation to pay for them.

(4) With respect to a sale or lease in violation of this section an assignee of the rights of the seller or lessor is subject to all claims and defenses of the buyer or lessee against the seller or

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lessor arising out of the sale or lease notwithstanding an agreement to the contrary, but the assignee's liability under this section may not exceed the amount owing to the assignee at the time the claim or defense is asserted against the assignee. Rights of the buyer or lessee under this section can only be asserted as a matter of defense to or set off against a claim by the assignee.

(5) In a sale or lease in violation of this section, the seller or lessor may not take a negotiable instrument other than a check as evidence of the obligation of the buyer or lessee. A holder is not in good faith if the holder takes a negotiable instrument with notice that it is issued in violation of this section.

(6) Any person who violates any provision of this subdivision shall be guilty of a gross misdemeanor.

Subd. 3. **Advertising media excluded.** Sections 325F.68 to 325F.70 shall apply to actions of the owner, publisher, agent or employee of newspapers, magazines, other printed matter or radio or television stations or other advertising media used for the publication or dissemination of an advertisement, only if the owner, publisher, agent, or employee has either knowledge of the false, misleading or deceptive character of the advertisement or a financial interest in the sale or distribution of the advertised merchandise.

Subd. 4. **Solicitation of money for merchandise not ordered or services not performed.** The act, use, or employment by any person of any solicitation for payment of money by another by any statement or invoice, or any writing that could reasonably be interpreted as a statement or invoice, for merchandise not yet ordered or for services not yet performed and not yet ordered, whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoined as provided in section 325F.70.

Subd. 5. **Prohibited going out of business sales.** It is illegal for any person to represent falsely that a sale is a "going out of business sale." Any representation that a sale is a "going out of business sale" is presumed to be false and illegal under this subdivision, if at that location or within a relevant market area:

(1) the sale has been represented to be a "going out of business sale" for a period of more than 120 days;

(2) the business has increased its inventory for the sale by ordering or purchasing an unusual amount of merchandise during the sale or during the 90 days before the sale began;

(3) the business, or any of its officers or directors, has advertised any other sale as a "going out of business sale" during the 120 days before this sale began; or

(4) the sale has continued after a date on which the business has represented, expressly or by reasonable implication, that the business would terminate.

Any presumption arising under clauses (1) to (4) may be rebutted if the business shows, by clear and convincing evidence, that the sale was in fact conducted in anticipation of the imminent

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termination of the business. This subdivision does not apply to a sale in any statutory or home rule charter city that by ordinance requires the licensing of persons conducting a "going out of business sale," nor to public officers acting in the course of their official duties.

Subd. 6. **Deceptive use of financial institution name.**

No person shall include the name, trade name, logo, or tagline of a financial institution as defined in section 49.01, subdivision 2, in a written solicitation for financial services directed to a customer who has obtained a loan from the financial institution without written permission from the financial institution, unless the solicitation clearly and conspicuously states that the person is not sponsored by or affiliated with the financial institution, which shall be identified by name. This statement shall be made in close proximity to, and in the same or larger font size as, the first and most prominent use or uses of the name, trade name, logo, or tagline in the solicitation, including on an envelope or through an envelope window containing the solicitation. For purposes of this section, the term "financial institution" includes a financial institution's affiliates and subsidiaries. This subdivision shall not prohibit the use of a financial institution name, trade name, logo, or tagline of a financial institution if the use of that name is part of a fair and accurate comparison of like products or services.

HIST: 1963 c 842 s 2; 1969 c 739 s 1; 1969 c 1100 s 1; 1971 c 391 s 1; 1973 c 454 s 1; 1975 c 364 s 3; 1985 c 148 s 3; 1986 c 444; 2004 c 228 art 1 s 56,57; 2005 c 118 s 17

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MISSISSIPPI

[Mississippi Code Annotated §75-24-51](#)

[Mississippi Code Annotated §75-24-53](#)

Text of Statute

§ 75-24-51. Definitions.

As used in Sections 75-24-51 through 75-24-61:

- (1) The term "sale or distribution" includes the acts of leasing, renting or consigning;
- (2) The term "goods" includes any personal property, real property, or any combination thereof;
- (3) The term "other property" includes a franchise, license distributorship or other similar right, privilege, or interest;
- (4) The term "person" includes an individual, corporation, trust, estate, partnership, unincorporated association, or any other legal or commercial entity;
- (5) The term "pyramid sales scheme" includes any plan or operation for the sale or distribution of goods, services, or other property wherein a person for a consideration acquires the opportunity to receive a pecuniary benefit, which is not primarily contingent on the volume or quantity of goods, services, or other property sold or distributed to be sold or distributed to persons for purposes of resale to consumers, and is based upon the inducement of additional persons, by himself or others, regardless of number, to participate in the same plan or operation;
- (6) "Franchise" means a written arrangement for a definite or indefinite period, in which a person for a consideration grants to another person a license to use a trade name, trademark, service mark, or related characteristic, and in which there is a community of interest in the marketing of goods or services at wholesale, retail, by lease, agreement or otherwise; except that, the term "franchise" shall not apply to persons engaged in sales from warehouses or like places of storage, leased departments of retail stores, or places of original manufacture; and
- (7) "Consideration" as used in Sections 75-24-51 through 75-24-61 does not include payment for sales demonstration equipment and materials furnished at cost for use in making sales and not for resale or payments amounting to less than one hundred dollars (\$100.00) when computed on an annual basis.

§ 75-24-53. Sales of participation in pyramid sales scheme forbidden; franchises to be terminated only on ninety days' notice.

No person shall, directly or through the use of agents or intermediaries, in connection with the sale, distribution, or lease of goods, services, or other property, sell, offer or attempt to sell a participation or the right to participate in a pyramid sales scheme. No person who has granted a franchise to another person shall cancel or otherwise terminate any such franchise agreement without notifying such person of the cancellation, termination or failure to renew in writing at least ninety (90) days in advance of the cancellation, termination or failure to renew, except that when criminal misconduct, fraud, abandonment, bankruptcy or insolvency of the franchisee, or

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the giving of a no account or insufficient funds check is the basis or grounds for cancellation or termination, the ninety-day notice shall not be required.

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MISSOURI

[Missouri Annotated Statutes §407.400](#)

[Missouri Annotated Statutes §407.405](#)

Text of Statute

407.400. As used in sections 407.400 to 407.420:

(1) "Franchise" means a written or oral arrangement for a definite or indefinite period, in which a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic, and in which there is a community of interest in the marketing of goods or services at wholesale, retail, by lease, agreement, or otherwise, including but not limited to a commercial relationship of definite duration or continuing indefinite duration, between a "wholesaler", such wholesaler being a person as defined in this section, licensed pursuant to the provisions of chapter 311, RSMo, to sell at wholesale, intoxicating liquor, as defined in section 311.020, RSMo, to retailers, duly licensed in this state, and a "supplier", being a person engaged in the business as a manufacturer, distiller, rectifier or out-of-state solicitor whose brands of intoxicating liquor are distributed through duly licensed wholesalers in this state, and wherein a wholesaler is granted the right to offer, sell, and distribute within this state or any designated area thereof such of the supplier's brands of intoxicating liquor, or all of them, as may be specified; except that, the term "franchise" shall not apply to persons engaged in sales from warehouses or like places of storage, other than wholesalers as above described, leased departments of retail stores, places of original manufacture, nor shall the term "franchise" apply to a commercial relationship that does not contemplate the establishment or maintenance of a place of business within the state of Missouri. As used herein "place of business" means a fixed, geographical location at which goods, products or services are displayed or demonstrated for sale;

(2) The term "goods" includes any personal property, real property, or any combination thereof;

(3) The term "other property" includes a franchise, license distributorship, or other similar right, privilege, or interest;

(4) The term "person" includes an individual, corporation, trust, estate, partnership, unincorporated association, or any other legal or commercial entity;

(5) The term "pyramid sales scheme" includes any plan or operation for the sale or distribution of goods, services or other property wherein a person for a consideration acquires the opportunity to receive a pecuniary benefit, which is not primarily contingent on the volume or quantity of goods, services, or other property sold or distributed or to be sold or distributed to persons for purposes of resale to consumers, and is based upon the inducement of additional persons, by himself or herself or others, regardless of number, to participate in the same plan or operation; and

(6) The term "sale or distribution" includes the acts of leasing, renting or consigning.

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407.405. No person shall, directly or through the use of agents or intermediaries, in connection with the sale or distribution of goods, service, or other property, sell, offer or attempt to sell a participation or the right to participate in a pyramid sales scheme. No person who has granted a franchise to another person shall cancel or otherwise terminate any such franchise agreement without notifying such person of the cancellation, termination or failure to renew in writing at least ninety days in advance of the cancellation, termination or failure to renew, except that when criminal misconduct, fraud, abandonment, bankruptcy or insolvency of the franchisee, or the giving of a no account or insufficient funds check is the basis or grounds for cancellation or termination, the ninety days' notice shall not be required.

MONTANA

[Montana Code Annotated §30-10-324](#)

[Montana Code Annotated §30-10-325](#)

Text of Statute

30-10-324. Definitions. As used in 30-10-324 through 30-10-326, the following definitions apply:

- (1) (a) "Compensation" means the receipt of money, a thing of value, or a financial benefit.
- (b) Compensation does not include:
 - (i) payments to a participant based upon the sale of goods or services by the participant to third persons when the goods or services are purchased for actual use or consumption; or
 - (ii) payments to a participant based upon the sale of goods or services to the participant that are used or consumed by the participant.
- (2) (a) "Consideration" means the payment of money, the purchase of goods or services, or the purchase of intangible property.
- (b) Consideration does not include:
 - (i) the purchase of goods or services furnished at cost that are used in making sales and that are not for resale; or
 - (ii) a participant's time and effort expended in the pursuit of sales or in recruiting activities.
- (3) (a) "Multilevel distribution company" means a person that:
 - (i) sells, distributes, or supplies goods or services through independent agents, contractors, or distributors at different levels of distribution;
 - (ii) may recruit other participants in the company; and
 - (iii) is eligible for commissions, cross-commissions, override commissions, bonuses, refunds, dividends, or other consideration that is or may be paid as a result of the sale of goods or services or the recruitment of or the performance or actions of other participants.
- (b) The term does not include an insurance producer, real estate broker, or salesperson or an investment adviser, investment adviser representative, broker-dealer, or salesperson, as defined in [30-10-103](#), operating in compliance with this chapter.
- (4) "Participant" means a person involved in a sales plan or operation.
- (5) "Person" means an individual, corporation, partnership, limited liability company, or other business entity.
- (6) (a) "Pyramid promotional scheme" means a sales plan or operation in which a participant gives consideration for the opportunity to receive compensation derived primarily from obtaining the participation of other persons in the sales plan or operation rather than from the sale of goods or services by the participant or the other persons induced to participate in the sales plan or operation by the participant.
- (b) A pyramid promotional scheme includes a Ponzi scheme, in which a person makes payments to investors from money obtained from later investors, rather than from any profits or other income of an underlying or purported underlying business venture.
- (c) A pyramid promotional scheme does not include a sales plan or operation that:
 - (i) subject to the provisions of subsection (6)(c)(v), provides compensation to a participant based primarily upon the sale of goods or services by the participant, including goods or services

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used or consumed by the participant, and not primarily for obtaining the participation of other persons in the sales plan or operation and that provides compensation to the participant based upon the sale of goods or services by persons whose participation in the sales plan or operation has been obtained by the participant;

(ii) does not require a participant to purchase goods or services in an amount that unreasonably exceeds an amount that can be expected to be resold or consumed within a reasonable period of time;

(iii) is authorized to use a federally registered trademark or service mark that identifies the company promoting the sales plan or operation, the goods or services sold, or the sales plan or operation;

(iv) (A) provides each person joining the sales plan or operation with a written agreement containing or a written statement describing the material terms of participating in the sales plan or operation;

(B) allows a person at least 15 days to cancel the person's participation in the sales plan or operation; and

(C) provides that if the person cancels participation within the time provided and returns any required items, the person is entitled to a refund of any consideration given to participate in the sales plan or operation; and

(v) (A) upon the request of a participant deciding to terminate participation in the sales plan or operation, provides for the repurchase, at not less than 90% of the amount paid by the participant, of any currently marketable goods or services sold to the participant within 12 months of the request that have not been resold or consumed by the participant; and

(B) if disclosed to the participant at the time of purchase, provides that goods or services are not considered currently marketable if the goods have been consumed or the services rendered or if the goods or services are seasonal, discontinued, or special promotional items. Sales plan or operation promotional materials, sales aids, and sales kits are subject to the provisions of this subsection (6)(c)(v) if they are a required purchase for the participant or if the participant has received or may receive a financial benefit from their purchase.

30-10-325. Operating pyramid promotional scheme unlawful. (1) A person may not conduct or promote or cause to be conducted or promoted a pyramid promotional scheme.

(2) A person who willfully violates the provisions of subsection (1) shall, for each participant giving consideration, be fined an amount not more than \$100,000 or be imprisoned for not more than 10 years, or both.

(3) A person who violates the provisions of subsection (1) shall, for each participant giving consideration, be assessed a civil penalty in an administrative proceeding in an amount not to exceed \$10,000.

NEBRASKA

[Nebraska Revised Statutes. §87-301\(9\)](#)

[Nebraska Revised Statutes §87-302](#)

Text of Statute

Section 87-301 *Terms, defined.*

For purposes of the Uniform Deceptive Trade Practices Act, unless the context otherwise requires:

(1) Access software provider means a provider of software, including client or server software, or enabling tools that do any one or more of the following: (a) Filter, screen, allow, or disallow content; (b) pick, choose, analyze, or digest content; or (c) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content;

(2) Appropriate inventory repurchase program means a program by which a plan or operation repurchases, upon request and upon commercially reasonable terms, when the salesperson's business relationship with the company ends, current and marketable inventory in the possession of the salesperson that was purchased by the salesperson for resale. Any such plan or operation shall clearly describe the program in its recruiting literature, sales manual, or contract with independent salespersons, including the disclosure of any inventory that is not eligible for repurchase under the program;

(3) Article means a product as distinguished from its trademark, label, or distinctive dress in packaging;

(4) Attorney General means the Attorney General of the State of Nebraska or the county attorney of any county with the consent and advice of the Attorney General;

(5) Cable operator means any person or group of persons (a) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system or (b) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system;

(6) Certification mark means a mark used in connection with the goods or services of a person other than the certifier to indicate geographic origin, material, mode of manufacture, quality, accuracy, or other characteristics of the goods or services or to indicate that the work or labor on the goods or services was performed by members of a union or other organization;

(7) Collective mark means a mark used by members of a cooperative, association, or other collective group or organization to identify goods or services and distinguish them from those of others, or to indicate membership in the collective group or organization;

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(8) Commercially reasonable terms means the repurchase of current and marketable inventory within twelve months from the date of purchase at not less than ninety percent of the original net cost, less appropriate setoffs and legal claims, if any;

(9) Compensation means a payment of any money, thing of value, or financial benefit;

(10) Consideration means anything of value, including the payment of cash or the purchase of goods, services, or intangible property. The term does not include the purchase of goods or services furnished at cost to be used in making sales and not for resale or time and effort spent in pursuit of sales or recruiting activities;

(11) Covered file-sharing program means a computer program, application, or software that enables the computer on which such program, application, or software is installed to designate files as available for searching by and copying to one or more other computers, to transmit such designated files directly to one or more other computers, and to request the transmission of such designated files directly from one or more other computers. Covered file-sharing program does not mean a program, application, or software designed primarily to operate as a server that is accessible over the Internet using the Internet Domain Name System, to transmit or receive email messages, instant messaging, real-time audio or video communications, or real-time voice communications, or to provide network or computer security, network management, hosting and backup services, maintenance, diagnostics, technical support or repair, or to detect or prevent fraudulent activities;

(12) Current and marketable has its plain and ordinary meaning but excludes inventory that is no longer within its commercially reasonable use or shelf-life period, was clearly described to salespersons prior to purchase as seasonal, discontinued, or special promotion products not subject to the plan or operation's inventory repurchase program, or has been used or opened;

(13) Information content provider means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service;

(14) Interactive computer service means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions;

(15) Inventory includes both goods and services, including company-produced promotional materials, sales aids, and sales kits that the plan or operation requires independent salespersons to purchase;

(16) Inventory loading means that the plan or operation requires or encourages its independent salespersons to purchase inventory in an amount which exceeds that which the salesperson can expect to resell for ultimate consumption or to a consumer in a reasonable time period, or both;

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(17) Investment means any acquisition, for a consideration other than personal services, of personal property, tangible or intangible, for profit or business purposes, and includes, without limitation, franchises, business opportunities, and services. It does not include real estate, securities registered under the Securities Act of Nebraska, or sales demonstration equipment and materials furnished at cost for use in making sales and not for resale;

(18) Mark means a word, name, symbol, device, or any combination of a word, name, symbol, or device in any form or arrangement;

(19) Person means a natural person, a corporation, a government, or a governmental subdivision or agency, a business trust, an estate, a trust, a partnership, a joint venture, a limited liability company, an unincorporated association, a sole proprietorship, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity;

(20) Pyramid promotional scheme means any plan or operation in which a participant gives consideration for the right to receive compensation that is derived primarily from the recruitment of other persons as participants in the plan or operation rather than from the sales of goods, services, or intangible property to participants or by participants to others. A limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility, or upon payment of anything of value by a person whereby the person obtains any other property in addition to the right to receive consideration, does not change the identity of the scheme as a pyramid promotional scheme;

(21) Referral or chain referral sales or leases means any sales technique, plan, arrangement, or agreement whereby the seller or lessor gives or offers to give a rebate or discount or otherwise pays or offers to pay value to the buyer or lessee as an inducement for a sale or lease in consideration of the buyer or lessee giving to the seller or lessor the names of prospective buyers or lessees or otherwise aiding the seller or lessor in making a sale or lease to another person if the earning of the rebate, discount, or other value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to buy or lease;

(22) Service mark means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others;

(23) Telecommunications service means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used;

(24) Trademark means any word, name, symbol, or device or any combination thereof adopted and used by a person to identify goods made or sold by such person and to distinguish such goods from goods made or sold by others;

(25) Trade name means a word or a name, or any combination of the foregoing in any form or arrangement used by a person to identify such person's business, vocation, or occupation and distinguish such business, vocation, or occupation from the business, vocation, or occupation of others; and

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(26) Use or promote the use of, for purposes of subdivision (a)(12) of section 87-302, means contrive, prepare, establish, plan, operate, advertise, or otherwise induce or attempt to induce another person to participate in a pyramid promotional scheme, including a pyramid promotional scheme run through the Internet, email, or other electronic communications.

87-302. Deceptive trade practices; enumerated.

(a) A person engages in a deceptive trade practice when, in the course of his or her business, vocation, or occupation, he or she:

(12) Uses or promotes the use of or establishes, operates, or participates in a pyramid promotional scheme in connection with the solicitation of such scheme to members of the public. This subdivision shall not be construed to prohibit a plan or operation, or to define a plan or operation as a pyramid promotional scheme, based on the fact that participants in the plan or operation give consideration in return for the right to receive compensation based upon purchases of goods, services, or intangible property by participants for personal use, consumption, or resale so long as the plan or operation does not promote or induce inventory loading and the plan or operation implements an appropriate inventory repurchase program;

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NEVADA

[Nevada Revised Statutes §598.100](#)

Text of Statute

PYRAMID PROMOTIONAL SCHEMES; ENDLESS CHAINS

NRS 598.100 Definitions. For the purposes of NRS 598.100 to 598.130, inclusive:

1. Compensation does not mean payment based on sales of goods or services to persons who are not participants in a pyramid promotional scheme or endless chain and who are not purchasing in order to participate in such a program.
2. Promotes means inducing one or more other persons to become a participant in a pyramid promotional scheme or endless chain.
3. A "pyramid promotional scheme" means any program or plan for the disposal or distribution of property and merchandise or property or merchandise by which a participant gives or pays a valuable consideration for the opportunity or chance to receive any compensation or thing of value in return for procuring or obtaining one or more additional persons to participate in the program, or for the opportunity to receive compensation of any kind when a person introduced to the program or plan by the participant procures or obtains a new participant in such a program.

(Added to NRS by 1971, 666; A 1985, 530)

NRS 598.110 Pyramid promotional schemes or endless chains are deceptive trade practices. Every person who contrives, prepares, sets up, proposes, operates, advertises or promotes any pyramid promotional scheme or endless chain commits a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

(Added to NRS by 1971, 666; A 1993, 1957)

NRS 598.120 Contracts and agreements voidable by participant. All contracts and agreements, existing or made in the future, which have any part of the consideration given for the right to participate in a pyramid promotional scheme or endless chain as defined in NRS 598.100 to 598.130, inclusive, are against public policy and voidable by a participant.

(Added to NRS by 1971, 666)

NRS 598.130 Injunctive relief; receivership. In addition to any other relief available under NRS 598.100 to 598.130, inclusive:

1. The Attorney General or any district attorney may commence an action in the district court having jurisdiction of the area where a pyramid promotional scheme or endless chain is being prepared, operated or promoted to enjoin or obtain any other equitable relief to prevent the

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further preparation, operation, promotion or prosecution of such scheme or chain. In addition to the relief authorized by this section, the court may award reasonable attorneys' fees and costs in any action brought under this section.

2. The Attorney General or any district attorney may petition the district court having jurisdiction of the area where a pyramid promotional scheme or endless chain is being prepared, operated or promoted to appoint receivers to secure and distribute in an equitable manner any assets received by any participant as a result of such scheme or program. Any such distribution must effect, to the extent possible, reimbursement for uncompensated payments made to become a participant in the scheme. In any such action, the court may, in addition to any other relief or reimbursement, award reasonable attorneys' fees and costs.

(Added to NRS by 1971, 666; A 1993, 1957)

NEW HAMPSHIRE

[New Hampshire Revised Statutes Annotated. §358-B:1.e1 ~](#)

Text of Statute

In this chapter:

I. "Chain distributor scheme" means a sales device whereby a person, upon condition that he make an investment, is granted a license or right to solicit or recruit for profit or economic gain one or more additional persons who are also granted such license or right upon condition of making an investment and may further perpetuate the chain of persons who are granted such license or right upon such condition. A limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility for such license or right to recruit or solicit or the receipt of profits there from, does not change the identity of the scheme as a chain distributor scheme.

II. "Investment" means any acquisition, for a consideration other than personal services, of property, tangible or intangible, and includes, without limitation, franchises, business opportunities and services. It does not include sales demonstration equipment and materials furnished at cost for use in making sales and not for resale.

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NEW JERSEY

56:8-2. Fraud, etc., in connection with sale or advertisement of merchandise or real estate as unlawful practice

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice; provided, however, that nothing herein contained shall apply to the owner or publisher of newspapers, magazines, publications or printed matter wherein such advertisement appears, or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher, or operator has no knowledge of the intent, design or purpose of the advertiser.

L.1960, c. 39, p. 138, s. 2. Amended by L.1967, c. 301, s. 2, eff. Feb. 15, 1968; L.1971, c. 247, s. 1, eff. June 29, 1971; L.1975, c. 294, s. 1, eff. Jan. 19, 1976.

MLM LAWS IN 50 STATES

NEW MEXICO

57-13-2. Definitions.

As used in the Pyramid Promotional Schemes Act [this article]:

A. "compensation" includes a payment based on a sale or distribution made to a person who either is a participant in a pyramid promotional scheme or has the right to become a participant upon payment;

B. "consideration" means the payment of cash or the purchase of goods, services or intangible property but does not include:

(1) the purchase of goods or services furnished at cost to be used in making sales and not for resale; or

(2) time and effort spent in pursuit of sales or recruiting activities; and

C. "pyramid promotional scheme" means any plan or operation by which a participant gives consideration for the opportunity to receive compensation which is derived primarily from any person's introduction of other persons into participation in the plan or operation rather than from the sale of goods, services or intangible property by the participant or other persons introduced into the plan or operation.

57-13-3. Prohibition; defenses excluded.

A. A person shall not establish, operate, advertise or promote a pyramid promotional scheme.

B. A limitation as to the number of persons who may participate or the presence of additional conditions affecting eligibility for the opportunity to receive compensation under the plan or operation does not change the identity of the scheme as a pyramid promotional scheme nor is it a defense under this article that a participant, on giving consideration, obtains any goods, services or intangible property in addition to the right to receive compensation.

57-13-4. Restraint of prohibited acts; restitution; penalties.

A. Whenever the attorney general has reasonable belief that any person is using, has used or is about to use any method, act or practice which is declared by the Pyramid Promotional Schemes Act [this article] to be unlawful and that proceedings would be in the public interest, he may bring an action in the name of the state against that person to restrain, by temporary or permanent injunction, the use of such method, act or practice. The action may be brought in the district court of the county in which the person resides or has his principal place of business or in the district court in the county in which the person is using, has used or is about to use the practice which has been alleged to be unlawful under the Pyramid Promotional Schemes Act. The attorney general acting on behalf of the state shall not be required to post bond when seeking a temporary or permanent injunction.

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B. In any action brought under Subsection A of this section, the court may, upon petition of the attorney general, require that the person engaged in the unlawful practice make restitution to all persons of money, property or other things received from them in any transaction related to the unlawful practice; and it is further provided that if the court finds that a person is willfully using or has willfully used a method, act or practice declared unlawful by the Pyramid Promotional Schemes Act, the attorney general, upon petition to the court, may recover on behalf of the state a civil penalty not exceeding ten thousand dollars (\$10,000) per violation.

57-13-5. Settlements.

A. In lieu of beginning or continuing an action pursuant to the Pyramid Promotional Schemes Act [this article], the attorney general may accept a written assurance of discontinuance of any practice in violation of that act from the person who has engaged in the unlawful practice. The attorney general may require an agreement by the person engaged in the unlawful practice that by a date set by the attorney general and stated in the assurance, he will make restitution to all persons of money, property or other things received from them in any transaction related to the unlawful practice. All settlements are a matter of public record.

B. A person need not accept restitution pursuant to an assurance. His acceptance of restitution bars recovery of any damages in any action by him or on his behalf against the same defendant on account of the same unlawful practice.

C. A violation of an assurance entered into pursuant to this section is a violation of the Pyramid Promotional Schemes Act.

57-13-6. Private remedies.

A. A person likely to be damaged by any method, act or practice which is declared by the Pyramid Promotional Schemes Act [this article] to be unlawful may be granted an injunction against it under the principles of equity and on terms that the court considers reasonable. Proof of monetary damage, loss of profits or intent to deceive or take unfair advantage of any person is not required.

B. Costs shall be allowed to the prevailing party unless the court otherwise directs. The court may award attorneys' fees to the prevailing party if:

(1) the party complaining of an unlawful practice has brought an action which he knew to be groundless; or

(2) the party charged with an unlawful practice has willfully engaged in the practice knowing it to be unlawful.

C. The relief provided in this section is in addition to remedies otherwise available against the same conduct under the common law or other statutes of this state.

57-13-7. Penalties.

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Any person violating the Pyramid Promotional Schemes Act [this article] shall be deemed guilty of a fourth degree felony and shall be sentenced to a term of imprisonment pursuant to the provisions of Subsections A through C of Section 31-18-15 NMSA 1978 or fined not less than one thousand dollars (\$1,000) or more than ten thousand dollars (\$10,000), or both.

57-13-8. Pyramid Promotional Schemes Act restitution fund.

A. All civil penalties collected under Section 57-13-4 NMSA 1978 shall be deposited in the state treasury in a fund to be designated as the "Pyramid Promotional Schemes Act restitution fund", which fund is hereby established and which shall be administered by the attorney general. All expenditures from this fund shall be paid upon petition to the attorney general to those persons adequately establishing injury in money, property or other things in a transaction related to a practice declared unlawful under the Pyramid Promotional Schemes Act [this article] and who were unknown to the court at the time judgment was rendered.

B. Excepting any amount then being considered as an expenditure pursuant to a petition under Subsection A of this section, the balance of a civil penalty collected shall be transferred to the state general fund eighteen months after collection.

57-13-9. Civil investigative demand.

A. Whenever the attorney general has reason to believe that any person may be in possession, custody or control of an original or copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription or other tangible document or recording which he believes to be relevant to the subject matter of an investigation of a probable violation of the Pyramid Promotional Schemes Act [this article], he may, prior to the institution of a civil proceeding, execute in writing and cause to be served upon the person a civil investigative demand requiring the person to produce documentary material and permit the inspection and copying of the material. The demand of the attorney general shall not be a matter of public record and shall not be published by him except by order of the court.

B. Each demand shall:

- (1) state the general subject matter of the investigation;
- (2) describe the classes of documentary material to be produced with reasonable certainty;
- (3) prescribe the return date within which the documentary material is to be produced, which in no case shall be less than ten days after the date of service; and
- (4) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying.

C. No demand shall:

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(1) contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of this state;

(2) require the disclosure of any documentary material which would be privileged or which for any other reason would not be required by a subpoena duces tecum issued by a court of this state; or

(3) require the removal of any documentary material from the custody of the person upon whom the demand is served, except in accordance with the provisions of Subsection E of this section.

D. Service of the demand may be made by:

(1) delivering a duly executed copy thereof to the person to be served or, if the person is not a natural person, to the statutory agent for the person or to any officer of the person to be served; or

(2) delivering a duly executed copy thereof to the principal place of business in this state of the person to be served; or

(3) mailing by registered or certified mail a duly executed copy of the demand addressed to the person to be served at his principal place of business in this state or, if the person has no place of business in this state, to his principal office or place of business.

E. Documentary material demanded pursuant to the provisions of this section shall be produced for inspection and copying during normal business hours at the principal office or place of business of the person served or may be inspected and copied at such other times and places as may be agreed upon by the person served and the attorney general.

F. No documentary material produced pursuant to a demand, or copies thereof, shall, unless otherwise ordered by the district court in the county in which the person resides or has his principal place of business or the person is about to perform or is performing the practice which is alleged to be unlawful under the Pyramid Promotional Schemes Act, for good cause shown, be produced for inspection or copying by anyone other than an authorized employee of the attorney general, nor shall the contents be disclosed to anyone other than an authorized employee of the attorney general or in court in an action relating to a violation of that act.

G. At any time before the return date of the demand, a petition to set aside the demand, modify the demand or extend the return date of the demand may be filed in the district court in the county in which the person resides or has his principal place of business or is about to perform or is performing the practice which is alleged to be unlawful under the Pyramid Promotional Schemes Act, and the court upon a showing of good cause may set aside the demand, modify it or extend the return date of the demand.

H. After service of the investigative demand upon him, if any person neglects or refuses to comply with the demand, the attorney general may invoke the aid of the court in the enforcement of the demand. In appropriate cases, the court shall issue its order requiring the person to appear

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and produce the documentary material required in the demand and may, upon failure of the person to comply with the order, punish the person for contempt.

I. This section shall not be applicable to criminal prosecutions.

57-13-11. Regulations.

The attorney general is empowered to issue and file as required by law all regulations necessary to implement and enforce any provision of the Pyramid Promotional Schemes Act [this article]. A violation of these regulations shall be unlawful.

57-13-12. Construction.

The Pyramid Promotional Schemes Act [this article] neither enlarges nor diminishes the rights of parties in private litigation.

57-13-13. Enforcement.

In order to promote the uniform administration of the Pyramid Promotional Schemes Act [this article] in New Mexico, the attorney general is to be responsible for its enforcement, but he may in appropriate cases delegate this authority to the district attorneys of the state, and, when this is done, the district attorneys shall have every power conferred upon the attorney general by that act.

57-13-14. Advertising media excluded.

The Pyramid Promotional Schemes Act [this article] does not apply to publishers, broadcasters, printers or other persons engaged in the dissemination of information or reproduction of printed or pictorial matters who publish, broadcast or reproduce material without actual knowledge of its being in violation of that act.

NEW YORK

[New York General Business Law §359-fff \(McKinney\)](#)

Text of Statute

§ 359-fff. Chain distributor schemes prohibited.

1. It shall be illegal and prohibited for any person, partnership, corporation, trust or association, or any agent or employee thereof, to promote, offer or grant participation in a chain distributor scheme.
2. As used herein a "chain distributor scheme" is a sales device whereby a person, upon condition that he make an investment, is granted a license or right to solicit or recruit for profit or economic gain one or more additional persons who are also granted such license or right upon condition of making an investment and may further perpetuate the chain of persons who are granted such license or right upon such condition. A limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility for such license or right to recruit or solicit or the receipt of profits there from, does not change the identity of the scheme as a chain distributor scheme. As used herein, "investment" means any acquisition, for a consideration other than personal services, of property, tangible or intangible, and includes without limitation, franchises, business opportunities and services, and any other means, medium, form or channel for the transferring of funds, whether or not related to the production or distribution of goods or services. It does not include sales demonstration equipment and materials furnished at cost for use in making sales and not for resale.
3. A chain distributor scheme shall constitute a security within the meaning of this article and shall be subject to all of the provisions of this article.

NORTH CAROLINA

[North Carolina General Statutes §14-291.2](#)

Text of Statute

14-291.2. Pyramid and chain schemes prohibited.

(a) No person shall establish, operate, participate in, or otherwise promote any pyramid distribution plan, program, device or scheme whereby a participant pays a valuable consideration for the opportunity or chance to receive a fee or compensation upon the introduction of other participants into the program, whether or not such opportunity or chance is received in conjunction with the purchase of merchandise. A person who establishes or operates a pyramid distribution plan is guilty of a Class H felony. A person who participates in or otherwise promotes a pyramid distribution plan is deemed to participate in a lottery and is guilty of a Class 2 misdemeanor.

(b) "Pyramid distribution plan" means any program utilizing a pyramid or chain process by which a participant gives a valuable consideration for the opportunity to receive compensation or things of value in return for inducing other persons to become participants in the program; and

"Compensation" does not mean payment based on sales of goods or services to persons who are not participants in the scheme, and who are not purchasing in order to participate in the scheme.

(c) Any judge of the superior court shall have jurisdiction, upon petition by the Attorney General of North Carolina or district attorney of the superior court, to enjoin, as an unfair or deceptive trade practice, the continuation of the scheme described in subsection (a); in such proceeding the court may assess civil penalties and attorneys' fees to the Attorney General or the District Attorney pursuant to G.S. 75-15.2 and 75-16.1; and the court may appoint a receiver to secure and distribute assets obtained by any defendant through participation in any such scheme. The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Any contract hereafter created for which a part of the consideration consisted of the opportunity or chance to participate in a program described in subsection (a) is hereby declared to be contrary to public policy and therefore void and unenforceable.

NORTH DAKOTA

CHAPTER 51-16.1

PYRAMID PROMOTIONAL AND REFERRAL SALES SCHEMES

51-16.1-01. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Compensation" includes a payment based on a sale or distribution made to a person who either is a participant in a pyramid promotional scheme or has the right to become a participant upon payment.
2. "Consideration" means the payment of cash or the purchase of goods, services, or intangible property but does not include:
 - a. The purchase of goods or services furnished at cost to be used in making sales and not for resale; or
 - b. Time and effort spent in pursuit of sales or recruiting activities.
3. "Pyramid promotional scheme" means any plan or operation by which a participant gives consideration for the opportunity to receive compensation which is derived primarily from any person's introduction of other persons into participation in the plan or operation rather than from the sale of goods, services, or intangible property by the participant or other persons introduced into the plan or operation.

51-16.1-02. Pyramid promotional schemes prohibited - Defenses excluded.

No person may establish, operate, advertise, or promote a pyramid promotional scheme.

2. It is not a defense to a criminal or civil prosecution under this section that:
 - a. The plan contains a limitation as to the number of persons who may participate or the presence of additional conditions affecting eligibility for the opportunity to receive compensation under the plan or operation; or
 - b. A participant, on giving consideration, obtains any goods, services, or intangible property in addition to the right to receive compensation.

51-16.1-03. Referral selling prohibited. No seller or lessor may give or offer a rebate, discount, or anything of value to a buyer or lessee as an inducement for a sale or lease in consideration of his giving to the seller or lessor the names of prospective purchasers or lessees, or otherwise aiding the seller or lessor in making a sale to another person, if the earning of the rebate, discount, or other thing of value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to the sale or lease.

MLM LAWS IN 50 STATES

51-16.1-04. Penalty - Civil remedies. Any person, including the officers and directors of any company, violating any of the provisions of this chapter is:

1. Guilty of a class A misdemeanor, but a person who has been previously convicted of a class A misdemeanor under this chapter may be charged with and convicted of a class C felony for any violation which occurs after the previous conviction;
2. Deemed to have committed an unlawful practice in violation of section 51-15-02 and subject to all provisions, procedures, and penalties of chapter 51-15; and
3. Notwithstanding any agreement to the contrary, subject to the right of any purchaser in a pyramid promotional scheme or referral selling scheme to declare the sale or contract void and also subject to an action in a court of competent jurisdiction by any purchaser to recover three times the damages sustained by the purchaser in participating in the scheme, plus reasonable attorney's fees and costs.

51-16.1-05. Scope of remedies.

1. The rights and remedies that this chapter grants to purchasers in pyramid promotional schemes and referral selling schemes are independent of and supplemental to any other right or remedy available to them in law or equity, and nothing contained herein may be construed to diminish or to abrogate any such right or remedy.
2. The provisions of this chapter are in addition to all other causes of action, remedies, and penalties available to the state or any of its governmental agencies.

OHIO

[Ohio Revised Code Annotated. §1333.91 et seq.](#)

Text of Statute

1333.91 Pyramid sales plan or program definitions.

As used in sections 1333.91 to 1333.94 of the Revised Code:

(A) “Pyramid sales plan or program” means any scheme, whether or not for the disposal or distribution of property, whereby a person pays a consideration for the chance or opportunity to receive compensation, regardless of whether he also receives other rights or property, under either of the following circumstances:

- (1) For introducing one or more persons into participation in the plan or program;
- (2) When another participant has introduced a person into participation in the plan or program.

(B) “Compensation” means money, financial benefit, or anything of value. Compensation does not include payment based upon sales made to persons who are not participants in a pyramid sales plan or program, and who are not purchasing in order to participate in the plan or program.

(C) “Consideration” does not include:

- (1) Payment for sales demonstration equipment and materials furnished at cost, whereby no profit, commission, fee, rebate or other benefit is realized by any person in the sales plan, for use in making sales and not for resale;
- (2) Payment for promotional and administrative fees not to exceed twenty-five dollars when computed on an annual basis.

(D) “Participant” means a person who purchases, proposes plans, prepares, or offers the opportunity to take part in, or advance into, a pyramid sales plan or program.

OKLAHOMA

[Oklahoma Statutes Annotated tit. 21, §1071 .e1~.](#)

Text of Statute

§21-1071. Oklahoma Pyramid Promotional Scheme Act - Short title.

This act shall be known and may be cited as the "Oklahoma Pyramid Promotional Scheme Act".
Added by Laws 1995, c. 186, § 1, eff. Nov. 1, 1995.

§21-1072. Definitions.

As used in the Oklahoma Pyramid Promotional Scheme Act:

1. "Compensation" means payment of money, thing of value or financial benefit. Compensation does not include:

a. payment to participants based upon sales of products purchased for actual use and consumption, or

b. payment to participants under reasonable commercial terms;

2. "Consideration" means the payment of cash or purchase of goods, services or intangible property. Consideration does not include:

a. purchase of products furnished at cost to be used in making sales and not for resale,

b. purchase of products where the seller offers to repurchase the participant's products under reasonable commercial terms, or

c. participant's time and effort in pursuit of sales or recruiting activities;

3. "Participant" means a person who contributes money into a pyramid promotional scheme;

4. "Person" means an individual, a corporation, a partnership or any association or unincorporated organization;

5. "Promote" means:

a. to contrive, prepare, establish, plan, operate or advertise, or

b. to induce or attempt to induce other persons to be a participant;

6. "Pyramid promotional scheme" means any plan or operation by which a participant gives consideration for the opportunity to receive compensation which is derived primarily from the person's introduction of other persons into the plan or operation rather than from the sale of goods, services or intangible property by the participant or other persons introduced into the plan or operation; and

7. "Reasonable commercial terms" includes repurchase by the seller, at the participant's request and upon termination of the business relationship or contract with the seller, of all unencumbered products purchased by the participant from the seller within the previous twelve (12) months which are unused and in commercially resalable condition. Repurchase by the seller shall be for not less than ninety percent (90%) of the actual amount paid by the participant to the seller of the products, less any consideration received by the participant for purchase of the products being returned. A product shall not be deemed nonresalable solely because the product is no longer marketed by the seller, unless it is clearly disclosed to the participant at the time of sale that the product is a seasonal, discontinued, or special promotion product, and not subject to the repurchase obligation.

Added by Laws 1995, c. 186, § 2, eff. Nov. 1, 1995.

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§21-1073. Promoting pyramid promotional scheme - Penalty.

Any person who promotes a pyramid promotional scheme shall be guilty of a felony and, upon conviction, shall be punishable by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment in the State Penitentiary for not more than ten (10) years, or by both such fine and imprisonment, for each violation of this act.

Added by Laws 1995, c. 186, § 3, eff. Nov. 1, 1995. Amended by Laws 1997, c. 133, § 285, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 187, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 285 from July 1, 1998, to July 1, 1999.

§21-1074. Written assurance of discontinuance of violation - Acceptance by district attorney - Restitution.

A district attorney may accept a written assurance of discontinuance of any practice in violation of this act from the person that has engaged in the unlawful practice. The district attorney may require in the agreement that by a certain date, restitution will be made to any person that has been a victim of a violation of this act. A person is not required to accept restitution pursuant to an assurance, however, acceptance of restitution pursuant to the assurance will bar that person from seeking damages from the same defendant for the same violations of this act.

Added by Laws 1995, c. 186, § 4, eff. Nov. 1, 1995.

§21-1075. Civil action.

Except as provided in Section 4 of this act, any participant in a pyramid promotional scheme may declare their transaction void and bring a civil action in a court of competent jurisdiction to recover the consideration paid. In such an action, the court, in addition to any judgment awarded, shall require the defendant to pay reasonable attorney fees and the costs of the action, less any money paid to the participant as profit in the pyramid promotional scheme.

Added by Laws 1995, c. 186, § 5, eff. Nov. 1, 1995.

OREGON

[Oregon Revised Statutes §646.609](#)

Text of Statute

646.609 “Pyramid club” and “investment” defined.

As used in ORS 646.608 (1)(r), “pyramid club” means a sales device whereby a person, upon condition that the person make an investment, is granted a license or right to solicit or recruit for economic gain one or more additional persons who are also granted such license or right upon condition of making an investment and who may further perpetuate the chain of persons who are granted such license or right upon such condition. “Pyramid club” also includes any such sales device which does not involve the sale or distribution of any real estate, goods or services, including but not limited to a chain letter scheme. A limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility for such license or right to recruit or solicit or the receipt of economic gain there from, does not change the identity of the scheme as a pyramid club. As used herein, “investment” means any acquisition, for a consideration other than personal services, of property, tangible or intangible, and includes without limitation, franchises, business opportunities and services. It does not include sales demonstration equipment and materials furnished at cost for use in making sales and not for resale. For the purpose of ORS 646.608 (1)(r), any person who organizes or induces or attempts to induce membership in a pyramid club is acting in the course of the person’s business, vocation or occupation. [1973 c.513 §3; 1981 c.379 §1]

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PENNSYLVANIA

[Pennsylvania Statutes Annotated Title 73, §201-2\(4\)\(xiii\)](#)

Text of Statute

73 P.S. § 201-2

§ 201-2. Definitions

As used in this act.

(1) "DOCUMENTARY MATERIAL" means the original or a copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription or other tangible document or recording, wherever situate.

(2) "PERSON" means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, and any other legal entities.

(3) "TRADE" and "COMMERCE" mean the advertising, offering for sale, sale or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situate, and includes any trade or commerce directly or indirectly affecting the people of this Commonwealth.

(4) "UNFAIR METHODS OF COMPETITION" and "UNFAIR OR DECEPTIVE ACTS OR PRACTICES" mean any one or more of the following:

(i) Passing off goods or services as those of another;

(ii) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services;

(iii) Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another;

(iv) Using deceptive representations or designations of geographic origin in connection with goods or services;

(v) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation or connection that he does not have;

(vi) Representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used or secondhand;

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- (vii) Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another;
- (viii) Disparaging the goods, services or business of another by false or misleading representation of fact;
- (ix) Advertising goods or services with intent not to sell them as advertised;
- (x) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;
- (xi) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;
- (xii) Promising or offering prior to time of sale to pay, credit or allow to any buyer, any compensation or reward for the procurement of a contract for purchase of goods or services with another or others, or for the referral of the name or names of another or others for the purpose of attempting to procure or procuring such a contract of purchase with such other person or persons when such payment, credit, compensation or reward is contingent upon the occurrence of an event subsequent to the time of the signing of a contract to purchase;
- (xiii) Promoting or engaging in any plan by which goods or services are sold to a person for a consideration and upon the further consideration that the purchaser secure or attempt to secure one or more persons likewise to join the said plan; each purchaser to be given the right to secure money, goods or services depending upon the number of persons joining the plan. In addition, promoting or engaging in any plan, commonly known as or similar to the so-called "CHAIN-LETTER PLAN" or "PYRAMID CLUB." The terms "CHAIN-LETTER PLAN" or "PYRAMID CLUB" mean any scheme for the disposal or distribution of property, services or anything of value whereby a participant pays valuable consideration, in whole or in part, for an opportunity to receive compensation for introducing or attempting to introduce one or more additional persons to participate in the scheme or for the opportunity to receive compensation when a person introduced by the participant introduces a new participant. As used in this sub clause the term "CONSIDERATION" means an investment of cash or the purchase of goods, other property, training or services, but does not include payments made for sales demonstration equipment and materials for use in making sales and not for resale furnished at no profit to any person in the program or to the company or corporation, nor does the term apply to a minimal initial payment of twenty-five dollars (\$ 25) or less;
- (xiv) Failing to comply with the terms of any written guarantee or warranty given to the buyer at, prior to or after a contract for the purchase of goods or services is made;
- (xv) Knowingly misrepresenting that services, replacements or repairs are needed if they are not needed;
- (xvi) Making repairs, improvements or replacements on tangible, real or personal property, of a nature or quality inferior to or below the standard of that agreed to in writing;

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(xvii) Making solicitations for sales of goods or services over the telephone without first clearly, affirmatively and expressly stating:

(A) the identity of the seller;

(B) that the purpose of the call is to sell goods or services;

(C) the nature of the goods or services; and

(D) that no purchase or payment is necessary to be able to win a prize or participate in a prize promotion if a prize promotion is offered. This disclosure must be made before or in conjunction with the description of the prize to the person called. If requested by that person, the telemarketer must disclose the no-purchase/no-payment entry method for the prize promotion;

(xviii) Using a contract, form or any other document related to a consumer transaction which contains a confessed judgment clause that waives the consumer's right to assert a legal defense to an action;

(xix) Soliciting any order for the sale of goods to be ordered by the buyer through the mails or by telephone unless, at the time of the solicitation, the seller has a reasonable basis to expect that it will be able to ship any ordered merchandise to the buyer:

(A) within that time clearly and conspicuously stated in any such solicitation; or

(B) if no time is clearly and conspicuously stated, within thirty days after receipt of a properly completed order from the buyer, provided, however, where, at the time the merchandise is ordered, the buyer applies to the seller for credit to pay for the merchandise in whole or in part, the seller shall have fifty days, rather than thirty days, to perform the actions required by this sub clause;

(xx) Failing to inform the purchaser of a new motor vehicle offered for sale at retail by a motor vehicle dealer of the following:

(A) that any rust proofing of the new motor vehicle offered by the motor vehicle dealer is optional;

(B) that the new motor vehicle has been rust proofed by the manufacturer and the nature and extent, if any, of the manufacturer's warranty which is applicable to that rust proofing; The requirements of this sub clause shall not be applicable and a motor vehicle dealer shall have no duty to inform if the motor vehicle dealer rust proofed a new motor vehicle before offering it for sale to that purchaser, provided that the dealer shall inform the purchaser whenever dealer rust proofing has an effect on any manufacturer's warranty applicable to the vehicle. This sub clause shall not apply to any new motor vehicle which has been rust proofed by a motor vehicle dealer prior to the effective date of this sub clause.

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(xxi) Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

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PUERTO RICO

Puerto Rico has a "Multi-level distribution company" law on its books regulating the operation of network marketing companies which are defined as: "any natural or artificial person who grants in exchange for an economic retribution, a franchise or concession for the distribution and/or sale of properties or services, to dealers who serve as intermediaries to enlist other dealers to the program and where other benefits or economic incentives are also offered for the purpose of promoting said enlistment." Puerto Rico Laws Annotated, tit. 10 §997a

Under the law, no multi-level distribution company may operate a program in which the benefits to the participants depend primarily on recruiting as opposed to the sale of properties or services, or where payment is in consideration only for the search and enlistment of new participants. In addition, no commissions shall be paid unless distributors exercise "actual control and effective supervision" in the sale of products or services to an ultimate consumer. Puerto Rico Laws Annotated, tit. 10 §997 et seq.

Every network marketing contract must contain various clauses permitting distributors to cancel the contract for any reason within the first 90 days, or if the distributor can show breach by the company. The notice of cancellation shall be made in writing and shall be sent to the company by registered mail. In the event of such a cancellation of the contract, the multi-level company must "reacquire the total of the products acquired by the dealer which are in his possession and in good condition at a price of not less than ninety (90) percent of their original net cost," and "must refund 90 percent of "the original net cost of any services acquired by him," or "of any sum paid by him for the purpose of participating in the business." Puerto Rico Laws Annotated, tit. 10 §997b

Earnings representations are limited as follows:

No multi-level distribution company may, directly or indirectly through its dealers, agents or participants, use as propaganda in the enlistment of new participants information on the profits or benefits obtained in the past by its dealers, agents or participants, or assure to prospective participants in this type of business a given amount of profits or benefits, unless the profits or benefits mentioned are those obtained at present by a reasonable number of participants in the Commonwealth or a similar geographical area and reflect the average profits and benefits obtained by them through the distribution and/or sale of properties or services. Likewise it is prohibited to make use of propaganda aimed at showing the facility of enlisting and retaining new participants and their operational or economic success.

Puerto Rico Laws Annotated, tit. 10 §997 d.

RHODE ISLAND

CHAPTER 6-29

Referral Selling

SECTION 6-29-1

§ 6-29-1 Home solicitation referral selling regulated. – No seller in a home solicitation sale or a cash sale as defined in §6-28-2 shall offer to pay a commission or give a rebate or discount to the buyer in consideration of the buyer's giving to the seller the names of prospective purchasers or otherwise aiding the seller in making a sale to another person, unless the seller actually delivers to the purchaser a chart showing the actual experience of purchasers for the three (3) calendar years ending prior to the contract under consideration, including the number of and monies paid to those who participated in the plan, and unless there shall be a separate, written agreement signed and dated by the buyer and also signed by the seller containing the following in ten-point bold face type or larger, directly above the space reserved in the agreement for the signature of the buyer:

1. No purchase of goods or services between the parties hereto has been induced by the promise of monies to be earned under this agreement.
2. The purchase price of any goods or services in any transaction between the parties hereto has not been increased in any way because of this agreement.
3. No payments due under this agreement may be held up, credited, or set-off toward payment of any obligation between the parties except on written authorization specifically allowing such action.
4. No other representations or agreements, oral or written, have been made by the parties hereto relating to the terms of this agreement.

SECTION 6-29-2

§ 6-29-2 Sales induced by referral offer voidable. – Any sale made in respect to which a commission, rebate, or discount is represented as being given in return for names of other prospective buyers shall be voidable at the option of the buyer, unless there is a written agreement between the parties to the sale containing the provisions set forth in § 6-29-1.

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SOUTH CAROLINA

[South Carolina Code Annotated §39-5-30 .e1 ~](#)

[South Carolina Code Annotated §39-5-30 .e1 ~](#)

Text of Statute

SECTION 39-5-30. Pyramid clubs and similar operations declared unfair trade practices.

Any contract or agreement between an individual and any pyramid club, or other group organized or brought together under any plan or device whereby fees or dues or anything of material value to be paid or given by members thereof are to be paid or given to any other member thereof, which plan or device includes any provision for the increase in such membership through a chain process of new members securing other new members and thereby advancing themselves in the group to a position where such members in turn receive fees, dues or things of material value from other members, is hereby declared to be an unfair trade practice pursuant to Section 39-5-20 (a) of the South Carolina Unfair Trade Practices Act of 1971.

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South Dakota

[South Dakota Codified Laws §37-33](#)

[South Dakota Codified Laws §37-33](#)

Text of Statute

37-33-1. "Promote" defined. For the purposes of §§ 37-33-1 to 37-33-11, inclusive, the term, promote, means contrive, prepare, establish, plan, operate, advertise, or otherwise induce or attempt to induce another person to participate in a pyramid promotional scheme.

37-33-2. "Appropriate inventory repurchase program" defined--"Inventory" defined--"Commercially reasonable" defined--"Current and marketable" defined. For the purposes of §§ 37-33-1 to 37-33-11, inclusive, the term, appropriate inventory repurchase program, means a program by which a plan or operation repurchases, upon request and upon commercially reasonable terms, when the salesperson's business relationship with the company ends, current and marketable inventory in the possession of the salesperson that was purchased by the salesperson for resale. Any such plan or operation shall clearly describe the program in its recruiting literature, sales manual, or contract with independent salespersons, including the disclosure of any inventory which is not eligible for repurchase under the program.

For the purposes of this section, the term, inventory, includes both goods and services, including company-produced promotional materials, sales aids, and sales kits that the plan or operation requires independent salespersons to purchase.

The term, commercially reasonable terms, means the repurchase of current and marketable inventory within twelve months from the date of purchase at not less than ninety percent of the original net cost, less appropriate set-offs and legal claims, if any.

The term, current and marketable, excludes inventory that is no longer within its commercially reasonable use or shelf-life period, that was clearly described to salespersons prior to purchase as seasonal, discontinued, or special promotion products not subject to the plan or operation's inventory repurchase program, or that has been used or opened.

37-33-3. "Pyramid promotional scheme" defined. For the purposes of §§ 37-33-1 to 37-33-11, inclusive, the term, pyramid promotional scheme, means any plan or operation by which a person gives consideration for the opportunity to receive compensation that is derived primarily from the introduction of other persons into the plan or operation rather than from the sale and consumption of goods, services, or intangible property by a participant or other persons introduced into the plan or operation. The term includes any plan or operation under which the number of persons who may participate is limited either expressly or by the application of conditions affecting the eligibility of a person to receive compensation under the plan or operation, or any plan or operation under which a person, on giving any consideration, obtains any goods, services, or intangible property in addition to the right to receive compensation.

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37-33-4. "Compensation" defined. For the purposes of §§ 37-33-1 to 37-33-11, inclusive, the term, compensation, means a payment of any money, thing of value, or financial benefit conferred in return for inducing another person to participate in a pyramid promotional scheme.

37-33-5. "Consideration" defined. For the purposes of §§ 37-33-1 to 37-33-11, inclusive, the term, consideration, means the payment of cash or the purchase of goods, services, or intangible property. The term does not include the purchase of goods or services furnished at cost to be used in making sales and not for resale, or time and effort spent in pursuit of sales or recruiting activities.

37-33-6. "Inventory loading" defined. For the purposes of §§ 37-33-1 to 37-33-11, inclusive, the term, inventory loading, means that the plan or operation requires or encourages its independent salespersons to purchase inventory in an amount, which exceeds that which the salesperson can expect to resell for ultimate consumption or to consume in a reasonable time period, or both.

37-33-7. Pyramid promotional schemes prohibited--Operation of scheme a felony--Participation in scheme a misdemeanor. No person may establish, promote, operate, or participate in any pyramid promotional scheme. A limitation as to the number of persons who may participate or the presence of additional conditions affecting eligibility for the opportunity to receive compensation under the plan does not change the identity of the plan as a pyramid promotional scheme. It is not a defense under this section that a person, on giving consideration, obtains goods, services, or intangible property in addition to the right to receive compensation.

Any person who establishes or operates a pyramid promotional scheme is guilty of a Class 5 felony. Any person who knowingly participates in a pyramid promotional scheme is guilty of a Class 1 misdemeanor.

37-33-8. Certain plans not defined as pyramid promotional schemes. Nothing in §§ 37-33-1 to 37-33-11, inclusive, may be construed to prohibit a plan or operation, or to define a plan or operation as a pyramid promotional scheme, based on the fact that participants in the plan or operation give consideration in return for the right to receive compensation based upon purchases of goods, services, or intangible property by participants for personal use, consumption, or resale so long as the plan or operation does not promote or induce inventory loading and the plan or operation implements an appropriate inventory repurchase program.

37-33-9. Attorney general may proceed against pyramid promotional schemes. The provisions of §§ 37-33-1 to 37-33-11, inclusive, do not preclude, preempt, or prohibit the attorney general from proceeding against any plan or scheme or any person involved with such plan or scheme under any other provision of law.

37-33-10. Civil proceedings by attorney general--Entry of orders--Injunctions--Hearings--Penalties--Payment of costs. If it appears to the attorney general that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of §§ 37-33-1 to 37-33-11, inclusive, or any order under §§ 37-33-1 to 37-33-11, inclusive, the attorney general may do one or more of the following:

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(1) Issue a cease and desist order, with or without prior hearing, against any person engaged in the prohibited activities, directing such person to cease and desist from further illegal activities;

(2) Bring an action in the circuit court to enjoin the acts or practices to enforce compliance with §§ 37-33-1 to 37-33-11, inclusive, or any order under §§ 37-33-1 to 37-33-11, inclusive; or

(3) Impose by order and collect a civil penalty against any person found in an administrative action to have violated any provision of §§ 37-33-1 to 37-33-11, inclusive, or any order issued under §§ 37-33-1 to 37-33-11, inclusive, in an amount not to exceed ten thousand dollars per violation per person. The attorney general may bring actions to recover penalties pursuant to this subdivision in circuit court. All civil penalties received shall be deposited in the state general fund.

Any person named in a cease and desist order issued pursuant to §§ 37-33-1 to 37-33-11, inclusive, shall be notified of his or her right to file, within fifteen days after the receipt of the order, a written notice for a hearing with the attorney general. If the attorney general does not receive a written request for a hearing within the time specified, the cease and desist order shall be permanent and the person named in the order deemed to have waived all rights to a hearing. Every such order shall state its effective date and shall concisely state its intent or purpose and the grounds on which it is based. Any person aggrieved by a final order issued pursuant to §§ 37-33-1 to 37-33-11, inclusive, may obtain a review of the order in the circuit court pursuant to the provisions of chapter 1-26.

Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or defendant's assets. In addition, upon a proper showing by the attorney general, the court may enter an order of rescission, restitution, or disgorgement directed to any person who has engaged in any act constituting a violation of any provision of §§ 37-33-1 to 37-33-11, inclusive, or any order under §§ 37-33-1 to 37-33-11, inclusive. The court may not require the attorney general to post a bond. In addition to fines or penalties, the attorney general shall collect costs and attorney fees.

37-33-11. Burden of proof. The burden of showing compliance with the provisions of §§ 37-33-1 to 37-33-11, inclusive, lies with the plan, scheme, or person involved with such plan or scheme.

TENNESSEE

[Tennessee Code Annotated §39-17-506 3\(b\)](#)

Text of Statute

39-17-506. Lotteries, chain letters and pyramid clubs.

(3) An annual event operated pursuant to title 3, chapter 17, and part 6 of this chapter.

(b) For the purposes of this section, "makes or aids in the making of any lottery" includes the organization of, membership in, or solicitation of persons for membership in any chain letter club, pyramid club, or other group organized under any plan whereby anything of value to be given by a member of the club or group is to be given to any other member of the club or group, which plan includes any provision for the increase in membership through a chain process of new members securing other new members and thereby advancing themselves in the group to a position where the members in turn receive things of value from other members.

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TEXAS

[Texas Business. & Commerce Code Annotated § 17.461](#)

Text of Statute

Sec. 17.461. PYRAMID PROMOTIONAL SCHEME. (a) In this section:

(1) "Compensation" means payment of money, a financial benefit, or another thing of value. The term does not include payment based on sale of a product to a person, including a participant, who purchases the product for actual use or consumption.

(2) "Consideration" means the payment of cash or the purchase of a product. The term does not include:

(A) a purchase of a product furnished at cost to be used in making a sale and not for resale;

(B) a purchase of a product subject to a repurchase agreement that complies with Subsection (b); or

(C) time and effort spent in pursuit of a sale or in a recruiting activity.

(3) "Participate" means to contribute money into a pyramid promotional scheme without promoting, organizing, or operating the scheme.

(4) "Product" means a good, a service, or intangible property of any kind.

(5) "Promoting a pyramid promotional scheme" means:

(A) inducing or attempting to induce one or more other persons to participate in a pyramid promotional scheme; or

(B) assisting another person in inducing or attempting to induce one or more other persons to participate in a pyramid promotional scheme, including by providing references.

(6) "Pyramid promotional scheme" means a plan or operation by which a person gives consideration for the opportunity to receive compensation that is derived primarily from a person's introduction of other persons to participate in the plan or operation rather than from the sale of a product by a person introduced into the plan or operation.

(b) To qualify as a repurchase agreement for the purposes of Subsection (a)(2)(B), an agreement must be an enforceable agreement by the seller to repurchase, on written request of the purchaser and not later than the first anniversary of the purchaser's date of purchase, all unencumbered products that are in an unused, commercially resalable condition at a price not

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less than 90 percent of the amount actually paid by the purchaser for the products being returned, less any consideration received by the purchaser for purchase of the products being returned. A product that is no longer marketed by the seller is considered resalable if the product is otherwise in an unused, commercially resalable condition and is returned to the seller not later than the first anniversary of the purchaser's date of purchase, except that the product is not considered resalable if before the purchaser purchased the product it was clearly disclosed to the purchaser that the product was sold as a nonreturnable, discontinued, seasonal, or special promotion item.

(c) A person commits an offense if the person contrives, prepares, establishes, operates, advertises, sells, or promotes a pyramid promotional scheme. An offense under this subsection is a state jail felony.

(d) It is not a defense to prosecution for an offense under this section that the pyramid promotional scheme involved both a franchise to sell a product and the authority to sell additional franchises if the emphasis of the scheme is on the sale of additional franchises.

UTAH

[Utah Code Annotated §76-6a](#)

Text of Statute

76-6a-1. Short title.

This act shall be known and may be cited as the "Pyramid Scheme Act."

76-6a-2. Definitions.

As used in this chapter:

(1) (a) "Compensation" means money, money bonuses, overrides, prizes, or other real or personal property, tangible or intangible.

(b) "Compensation" does not include payment based on the sale of goods or services to anyone purchasing the goods or services for actual personal use or consumption.

(2) "Consideration" does not include payment for sales demonstration equipment and materials furnished at cost for use in making sales and not for resale, or time or effort spent in selling or recruiting activities.

(3) "Person" includes a business trust, estate, trust, joint venture, or any other legal or commercial entity.

(4) "Pyramid scheme" means any sales device or plan under which a person gives consideration to another person in exchange for compensation or the right to receive compensation which is derived primarily from the introduction of other persons into the sales device or plan rather than from the sale of goods, services, or other property.

76-6a-3. Schemes prohibited -- Violation as deceptive consumer sales practice -- Prosecution of civil violations.

(1) A person may not participate in, organize, establish, promote, or administer any pyramid scheme.

(2) A criminal conviction under this chapter is prima facie evidence of a violation of Section 13-11-4, the Utah Consumer Sales Practices Act.

(3) Any violation of this chapter constitutes a violation of Section 13-11-4, the Utah Consumer Sales Practices Act.

(4) All civil violations of this chapter shall be investigated and prosecuted as prescribed by the Utah Consumer Sales Practices Act.

76-6a-4. Operation as felony -- Participation as misdemeanor -- Investigation -- Prosecution.

(1) Any person who knowingly organizes, establishes, promotes, or administers a pyramid scheme is guilty of a third degree felony.

(2) Any person who participates in a pyramid scheme only by receiving compensation for the introduction of other persons into the pyramid scheme rather than from the sale of goods, services, or other property is guilty of a class B misdemeanor.

(3) The appropriate county attorney or district attorney has primary responsibility for investigating and prosecuting criminal violations of this chapter.

76-6a-5. Plan provisions not constituting defenses.

It is not a defense to an action brought under this chapter if:

(1) The sales device or plan limits the number of persons who may be introduced into it;

(2) The sales device or plan includes additional conditions affecting eligibility for introduction into it or when compensation is received from it; or

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(3) A person receives property or services in addition to the compensation or right to receive compensation in connection with a pyramid scheme.

76-6a-6. Rights of persons giving consideration in scheme.

(1) Any person giving consideration in connection with a pyramid scheme may, notwithstanding any agreement to the contrary, declare his giving of consideration and the related sale or contract for sale void, and may bring a court action to recover the consideration. In the action, the court shall, in addition to any judgment awarded to the plaintiff, require the defendant to pay to the plaintiff interest as provided in Section 15-1-4, reasonable attorneys' fees, and the costs of the action reduced by any compensation paid by the defendant to the plaintiff in connection with the pyramid scheme.

(2) The rights, remedies, and penalties provided in this chapter are independent of and supplemental to each other and to any other right, remedy or penalty available in law or equity. Nothing contained in this chapter shall be construed to diminish or abrogate any other right, remedy or penalty.

VERMONT

[Virginia Code Annotated §18.2-239](#)

Text of Statute

§ 18.2-239. Pyramid promotional schemes; misdemeanor; definitions; contracts void.

Every person who contrives, prepares, sets up, operates, advertises or promotes any pyramid promotional scheme shall be guilty of a Class 1 misdemeanor. For the purposes of this section:

(1) "Compensation" means the transfer of money or anything of value.

"Compensation" does not mean payment based on sales of goods or services to persons who are not participants in the scheme and who are not purchasing in order to participate in the scheme;

(2) "Consideration" means the payment of cash or the purchase of goods, services, or intangible property;

(3) "Promotes" means inducing one or more other persons to become a participant; and

(4) "Pyramid promotional scheme" means any plan or operation by which a person gives consideration for the opportunity to receive compensation a majority of which is derived from the introduction of other persons into the plan or operation rather than from the sale or consumption of goods, services, or intangible property by a participant or other persons introduced into the plan or operation.

All contracts and agreements, now existing or hereafter formed, whereof the whole or any part of the consideration is given for the right to participate in pyramid promotional scheme programs, are against public policy, void and unenforceable.

Any violation of the provisions of this section shall constitute a prohibited practice under the provisions of § 59.1-200 and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

VIRGINIA

[Virginia Code Annotated §18.2-239](#)

Text of Statute

§ 18.2-239. Pyramid promotional schemes; misdemeanor; definitions; contracts void.

Every person who contrives, prepares, sets up, operates, advertises or promotes any pyramid promotional scheme shall be guilty of a Class 1 misdemeanor. For the purposes of this section:

(1) "Compensation" means the transfer of money or anything of value.

"Compensation" does not mean payment based on sales of goods or services to persons who are not participants in the scheme and who are not purchasing in order to participate in the scheme;

(2) "Consideration" means the payment of cash or the purchase of goods, services, or intangible property;

(3) "Promotes" means inducing one or more other persons to become a participant; and

(4) "Pyramid promotional scheme" means any plan or operation by which a person gives consideration for the opportunity to receive compensation a majority of which is derived from the introduction of other persons into the plan or operation rather than from the sale or consumption of goods, services, or intangible property by a participant or other persons introduced into the plan or operation.

All contracts and agreements, now existing or hereafter formed, whereof the whole or any part of the consideration is given for the right to participate in pyramid promotional scheme programs, are against public policy, void and unenforceable.

Any violation of the provisions of this section shall constitute a prohibited practice under the provisions of § 59.1-200 and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

WASHINGTON

[Washington Revised Code Annotated §19.275.010-0130](#)

Text of Statute

19.275.010

Findings.

The legislature finds that pyramid schemes, chain letters, and related illegal schemes are enterprises:

- (1) That finance returns to participants through sums taken from newly attracted participants;
- (2) In which new participants are promised large returns for their investment or contribution; and
- (3) That involve unfair and deceptive sales tactics, including: Misrepresentations of sustainability, profitability and legality of the scheme, and false statements that the scheme is legal or approved by governmental agencies.

[2006 c 65 § 1.]

19.275.020

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Compensation" means payment, regardless of how it is characterized, of money, financial benefit, or thing of value. "Compensation" does not include payment based on the sale of goods or services to anyone who is purchasing the goods or services for actual use or consumption.
- (2) "Consideration" means the payment, regardless of how it is characterized, of cash or the purchase of goods, services, or intangible property. "Consideration" does not include:
 - (a) The purchase of goods or services furnished at cost to be used in making sales and not for resale;
 - (b) The purchase of goods or services subject to a bona fide repurchase agreement as defined in subsection (5) of this section; or
 - (c) Time and effort spent in pursuit of sales or recruiting activities.
- (3) "Person" means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, or any other legal entity.

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(4) "Pyramid schemes" means any plan or operation in which a person gives consideration for the right or opportunity to receive compensation that is derived primarily from the recruitment of other persons as participants in the plan or operation, rather than from the bona fide sale of goods, services, or intangible property to a person or by persons to others.

(5)(a) "Repurchase agreement" means an enforceable agreement by the seller to repurchase, at the buyer's written request, all currently marketable inventory within one year from its date of purchase; and the refund must not be less than ninety percent of the original net cost, less any consideration received by the buyer when he or she bought the products being returned.

(b) Products shall not be considered currently marketable if returned for repurchase after the products' commercially reasonable usable or shelf life has passed, or if it has been clearly disclosed to the buyer that the products are seasonal, discontinued, or special promotion products that are not subject to the repurchase obligation.

[2006 c 65 § 2.]

19.275.030

Pyramid scheme — Prohibition.

(1) No person may establish, promote, operate, or participate in any pyramid scheme.

(2) A limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility for the opportunity to receive compensation under the scheme, does not change the identity of the scheme as a pyramid scheme.

(3) It is not a defense under chapter 65, Laws of 2006 that a person, on giving consideration, obtains goods, services, or intangible property in addition to the right to receive compensation, nor is it a defense to designate the consideration a gift, donation offering, or other word of similar meaning.

[2006 c 65 § 3.]

19.275.040

Application of the consumer protection act.

The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

[2006 c 65 § 4.]

19.275.900

Short title — 2006 c 65.

This act may be cited as the "anti-pyramid promotional scheme act."

WEST VIRGINIA

[West Virginia Code §47-15 .e1](#)

Text of Statute

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 15. PYRAMID PROMOTIONAL SCHEME.

§47-15-1. Definitions.

(a) "Pyramid promotional scheme" shall mean the organization of any chain letter club, pyramid club, or other group organized or brought together under any plan or device whereby fees or dues or anything of material value to be paid or given by members thereof are to be paid or given to any other member thereof, which plan or device includes any provision for the increase in such membership through a chain process of any members securing other new members and thereby advancing themselves in the group to a position where such members in turn receive fees, dues or things of material value from other members.

(b) "Promote" or "promotion" shall mean the initiation, preparation, operation, advertisement, or the recruitment of any person or persons in the furtherance of any pyramid promotional scheme as defined in subsection (a) of this section.

§47-15-2. Unlawful act.

No person shall promote any pyramid promotional scheme, either personally or through an agent or agents.

§47-15-3. Contracts void and unenforceable.

All contracts and agreements entered into after the effective date of this article wherein the whole or any part of the consideration of such contract or agreement is given in exchange for the right to participate in any pyramid promotional scheme are hereby declared to be against public policy and are hereby declared to be void and unenforceable.

§47-15-4. Restraining prohibited acts.

The prosecuting attorney of any county or the attorney general, or any person, may petition the circuit court to enjoin the continued operation of any pyramid promotional scheme as defined in this article. The procedure in any such suit shall be the same as the procedure in other suits for equitable relief, except that no bond shall be required upon the granting of either a temporary or permanent injunction therein, when such proceedings are initiated by a prosecuting attorney of any county or the attorney general.

§47-15-5. Criminal penalties.

Any person who shall violate the provisions of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than three hundred nor more than one thousand dollars, or confined in jail for a period not to exceed six months, or both.

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§47-15-6. Severability.

If any provision of this article is declared unconstitutional or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the article and the applicability thereof to other persons and circumstances shall not be affected thereby.

WISCONSIN

[Wisconsin Statutes Annotated §945.12](#)

Text of Statute

945.12 Endless sales chains. Whoever sets up, promotes or aids in the promotion of a plan by which motor vehicles are sold to a person for a consideration and upon the further consideration that the purchaser agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser being given the right to secure money, credits, goods or something of value, depending upon the number of persons joining in the plan, shall be held to have set up and promoted a lottery and shall be punished as provided in s. 945.02. The further prosecution of any such plan may be enjoined.

WYOMING

[Wyoming Statutes §40-3-102 - 40-3-107](#)

Text of Statute

CHAPTER 3 - MULTILEVEL AND PYRAMID DISTRIBUTORSHIPS

40-3-101. Short title.

This act may be cited as the "Wyoming Multilevel and Pyramid Distributorship Act."

40-3-102. Definitions.

(a) As used in this act:

(i) "Multilevel distribution companies" means any person, firm, corporation or other business entity which sells, distributes or supplies for a valuable consideration, goods or services through independent agents, contractors or distributors, at different levels wherein such participants may recruit other participants, and wherein commissions, cross-commissions, bonuses, refunds, discounts, dividends or other considerations in the program are, or may be, paid as a result of the sale of such goods or services or the recruitment, actions or performances of additional participants;

(ii) "Multilevel distribution marketing plan" means any agreement for a definite or indefinite period, either expressed or implied, in which a person agrees, for a valuable consideration, to distribute goods or services of a multilevel distribution company to members of the public or to persons who occupy different levels in the multilevel distribution company's distribution system;

(iii) "Distributor" means any independent contracted person, agent, employer or participant who has agreed to perform, at one (1) or more levels in a multilevel distribution marketing plan, the functions of distributing the goods or services of the multilevel distribution company or the recruitment of subordinate distributors or both functions;

(iv) "Resalable condition" means products that will pass without objection in the trade, or are still fit for the ordinary purposes for which the products are used;

(v) "Referral sale" means any inducement offered to a person, for the purpose of selling a product or service, which is the opportunity to receive compensation without exercising a bona fide and commensurate responsibility for the sale of the product or service to the ultimate customer; or any offer to a person of an opportunity to receive compensation related to the recruitment of third persons who will be entitled to substantially similar recruiting opportunities when the offer is used as an inducement for the payment of an entrance fee, given toward a purchase or other consideration, except for the actual cost of necessary sales materials by the persons to whom the offer is made;

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(vi) "Endless chain" means any scheme or plan for the disposal or distribution of property or services whereby a participant pays a valuable consideration for the chance to receive compensation for introducing one (1) or more additional persons into participation in the scheme or plan or for the chance to receive compensation when the person introduced by the participant introduces a new participant;

(vii) "Documentary material" means the original or a copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, other tangible document or recording, reproductions of information stored magnetically, file layout, code conversion tables, computer programs to convert file to readable printout, wherever situate.

40-3-103. Endless chains and referral sales prohibited.

No person may contrive, prepare, set up, propose or operate an endless chain or referral sale.

40-3-104. Prohibitions and requirements.

Every multilevel distribution company shall provide in its contract of participation that the contract may be cancelled for any reason at any time by a participant upon notification in writing to the company of his election to cancel. If the participant has purchased products while the contract of participation was in effect, all unencumbered products in a resalable condition then in the possession of the participant shall be repurchased by the multilevel distribution company. The repurchase shall be at a price of not less than ninety percent (90%) of the original net cost to the participant returning such goods, taking into account any sales made by or through such participant prior to notification to the company of the election to cancel.

40-3-105. Restrictions on marketing programs.

(a) No multilevel distribution company, nor any participant, shall require participants in its marketing program to purchase products or services or pay any other consideration in order to participate in the marketing program unless the multilevel distribution company agrees in writing:

(i) To repurchase all or part of any products which are unencumbered and in a resalable condition at a price of not less than ninety percent (90%) of the original net cost to the participant, taking into account any sales made by or through such participant prior to notification to the company of election to cancel;

(ii) To repay not less than ninety percent (90%) of the original net cost of any services purchased by the participants; or

(iii) To refund not less than ninety percent (90%) of any other consideration paid by the participant in order to participate in the marketing program.

40-3-106. Additional restrictions in marketing programs.

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(a) No multilevel distribution company or participant in its marketing program shall:

(i) Operate or, directly or indirectly, participate in the operation of any multilevel marketing program wherein the financial gains to the participants are primarily dependent upon the continued, successive recruitment of other participants and where sales to nonparticipants are not required as a condition precedent to realization of the financial gains;

(ii) Offer to pay, pay or authorize the payment of any finder's fee, bonus, refund, override, commission, cross-commission, dividend or other consideration to any participant in a multilevel marketing program solely for the solicitation or recruitment of other participants therein;

(iii) Offer to pay, pay or authorize the payment of any finder's fee, bonus, refund, override, commission, cross-commission, dividend or other consideration to any participant in a multilevel marketing program in connection with the sale of any product or service unless the participant performs a bona fide supervisory, distributive, selling or soliciting function in the sale or delivery of the product or services to the ultimate consumer; or

(iv) Offer to pay, pay or authorize the payment of any finder's fee, bonus, refund, override, commission, cross-commission, dividend or other consideration to any participant:

(A) If payment thereof is or would be dependent on the element of chance dominating over the skill or judgment of the participant;

(B) If no amount of judgment or skill exercised by the participant has any appreciable effect upon any finder's fee, bonus, refund, override, commission, cross-commission, dividend or other consideration which the participant may receive; or

(C) If the participant is without that degree of control over the operation of the plan as to enable him substantially to affect the amount of finder's fee, bonus, refund, override, commission, cross-commission, dividend or other consideration which he may receive or be entitled to receive.

40-3-107. Representations of prospective income restricted.

Multilevel distribution companies shall not represent directly or by implication that participants in a multilevel marketing program will earn or receive any stated gross or net amount, or represent in any manner the past earnings of participants. A written or verbal description of the manner in which the marketing plan operates shall not, standing alone, constitute a representation of earnings, past or future. Multilevel distribution companies shall not represent directly or by implication, that it is relatively easy to secure or retain additional distributors or sales personnel or that all or substantially all participants will succeed.

40-3-108. Licensed activities excluded.

Nothing in W.S. 40-3-101 through 40-3-125 shall apply to acts or practices permitted under the laws of this state or under rules, regulations or decisions interpreting the laws, or to any person who has procured a license as provided by W.S. 39-17-106(a) or (b).

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40-3-109. Notice of activity and consent to service of process.

Each multilevel distribution company numbering among its participants any resident of this state shall file with the state's attorney general a statement giving notice of this fact and designating the secretary of state of this state its agent for service of process for any alleged violation of this act. The written notice shall further set forth the intention of the multilevel distribution company to abide by the provisions of this act. Compliance with this section shall not subject any multilevel distribution company to the provisions or consequences of any other statute of this state.

40-3-110. Secretary of state agent for service of process for violations.

Any multilevel distribution company, which fails to comply with W.S. 40-3-109 is deemed to have thereby appointed the secretary of state its agent for service of process for any alleged violation of this act.

40-3-111. Investigatory powers.

(a) If the attorney general has reason to believe that a person has engaged in activity which violates the provisions of this act, he shall make an investigation to determine if this act has been violated, and, to the extent necessary for this purpose, may administer oaths or affirmations, and, upon his own motion or upon request of any party, may subpoena witnesses, compel their attendance, adduce evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(b) If the person's records are located outside this state, the person at his option shall either make them available to the attorney general at a convenient location within this state or pay the reasonable and necessary expenses for the attorney general or his representative to examine them at the place where they are maintained. The attorney general may designate representatives, including comparable officials of the state in which the records are located, to inspect them on his behalf.

(c) Upon failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby, the attorney general may apply to the district court for an order compelling compliance.

40-3-112. Service of process.

(a) Service of any type of process authorized by this act shall be personal within this state, but if such personal service cannot be obtained, substituted service may be made in the following manner:

(i) By service as provided by W.S. 40-3-109 and 40-3-110;

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- (ii) By service on the secretary of state;
- (iii) Personal service without the state;
- (iv) By registered or certified mail to the last known place of business, residence or abode of such persons for whom it is intended;
- (v) As to any person other than a natural person, in the manner provided in the rules of civil procedure as if a complaint or other pleading which institutes a civil action has been filed; or
- (vi) By such service as a district court may direct in lieu of personal service within this state.

40-3-113. Venue of action for injunctive relief.

An action under this act may be brought in the district court of the county in which the alleged violator resides or has his place of business or in the district court of Laramie county, Wyoming.

40-3-114. Injunctive relief against violations; remedy not exclusive.

The attorney general may, whenever it appears to him that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this act or any rule or order hereunder, bring an action in the name of the people of the state in a district court to enjoin the acts or practices or to enforce compliance with this act or any rule or order hereunder. Upon a proper showing, a permanent or preliminary injunction or restraining order shall be granted. The court shall not require the attorney general to post a bond. This section is not deemed to be exclusive of the remedies available to the state and the criminal penalties found in this act may also apply to individuals who are the subject of an action brought under this section.

40-3-115. Civil penalty for violating injunction.

The attorney general, upon petition to the court, may recover, on behalf of the state, a civil penalty of not more than five thousand dollars (\$5,000.00) per violation from any person who violates the terms of an injunction issued under W.S. 40-3-114.

40-3-116. Acceptance of assurance of voluntary compliance authorized.

In the enforcement of this act, the attorney general may accept an assurance of voluntary compliance with respect to any act or practice alleged to be violative of this act from any person who has engaged in, is engaging in or is about to engage in such act or practice.

40-3-117. Jurisdiction retained by court.

The court shall retain jurisdiction in any case where an injunction is entered or a consent agreement is reached or an assurance of voluntary compliance is agreed upon.

40-3-118. Additional relief authorized; appointment of receiver.

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The court may make such additional orders or judgments as may be necessary to restore to any person in interest any monies or property, real or personal, which the court finds to have been acquired by means of any act or practice committed in violation of this act. Such additional relief may include the appointment of a receiver whenever it appears to the satisfaction of the court that the defendant threatens or is about to remove, conceal or dispose of his property to the damage of persons to whom restoration would be made under this act.

40-3-119. Receiver's power to acquire and dispose of property.

Any receiver appointed pursuant to W.S. 40-3-118 has the power to sue for, collect, receive and take into his possession all the goods and chattels, rights and credits, monies and effects, land and tenements, books, records, documents, papers, choses in action, bills, notes and property of every description derived in violation of this act by any multilevel distribution company or any distributor in any multilevel distribution marketing plan sponsored by such company, including property which has been commingled with company or distributor property, if it cannot be identified in kind because of such commingling, and to sell, convey and assign the same and hold and dispose of the proceeds thereof under the direction of the court.

40-3-120. Civil penalty for willful violation; willful violation defined.

In any action brought pursuant to this act, if the court finds that any person has engaged in prohibited activities in willful violation of or in reckless disregard for any provision of this act, the attorney general or county attorney in any county in which the violation occurred, upon petition to the court, may recover, on behalf of the state, a civil penalty of not more than two thousand dollars (\$2,000.00) per violation. For purposes of this section, a willful or reckless disregard occurs when the party committing the violation knew or should have known that his conduct was a violation of this act.

40-3-121. Property acquisition and disposition remedy available in action for private remedy.

The remedy provided by W.S. 40-3-119 is available to any person in any action brought for a private remedy against any multilevel distribution company or any distributor in the multilevel distribution marketing plan sponsored by the company.

40-3-122. Penalties for violations; other criminal remedies unimpaired.

Any person who willfully violates any provision of this act, or who willfully violates any rule or order under this act, shall upon conviction be fined not more than five hundred dollars (\$500.00) or imprisoned in a county jail for not more than one (1) year, or be punished by both such fine and imprisonment, but no person may be imprisoned for the violation of any rule or order if he proves that he had no knowledge of the rule or order. Nothing in this act limits the power of the state to punish any person for any conduct which constitutes a crime under any other statute.

40-3-123. Limitation of actions.

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No action shall be maintained to enforce any liability created under this act unless brought before the expiration of three (3) years after the act or transaction constituting the violation or the expiration of one (1) year after the discovery by the plaintiff of the fact constituting the violation.

40-3-124. Causes of action under other law unimpaired.

Nothing in this act shall in any way affect causes of action arising under other laws of this state or under the common law brought by any private person.

40-3-125. Severability of provisions.

If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one (1) or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.