
SUBSTITUTE SENATE BILL 6586

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Commerce, Trade, Housing & Financial Institutions (originally sponsored by Senators Prentice, Hale, Winsley, Goings, Oke and Gardner; by request of Attorney General)

Read first time 02/04/2000.

1 AN ACT Relating to the prohibition of chain letters, pyramid
2 schemes, gifting clubs, and pyramid sales schemes; adding a new chapter
3 to Title 9A RCW; repealing RCW 19.102.010 and 19.102.020; prescribing
4 penalties; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** PURPOSE AND INTENT. The legislature
7 concludes that pyramid schemes, chain letters, and related schemes
8 constitute a threat to the health, welfare, and safety of our citizens
9 and their communities. These schemes are fertile ground for deception
10 and, in the end, can lead to serious financial loss, destroyed
11 relationships, and breach of the peace. Flexible regulation resulting
12 in prohibition of such schemes is necessary in order to:

13 (1) Protect the unsuspecting citizen from falling prey to these
14 schemes; and

15 (2) Ensure certainty for law enforcement and affected agencies,
16 that must protect our citizens and educate the public on the risks and
17 threats posed by involvement in these fraudulent schemes and illegal
18 acts.

1 Therefore, it is the intent of the legislature to enact a
2 comprehensive prohibition of pyramid schemes and related activities to
3 protect the public's strong interest in their eradication and provide
4 for a balance of public and private remedies to ensure that such
5 schemes do not obtain a foothold in the state of Washington.

6 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
7 section apply throughout this chapter unless the context clearly
8 requires otherwise.

9 (1) "Compensation" means payment of money, anything of value, or
10 financial benefit. Compensation does not include:

11 (a) Payment to participants based upon sales of products purchased
12 for actual use and consumption; or

13 (b) Payment to participants under reasonable commercial terms.

14 (2) "Consideration" means anything of value including in
15 circumstances where no bona fide product or service is offered for sale
16 by participants, an agreement or promise to abide by the plan's rules
17 or policies, except it shall not include: (a) The purchase of goods or
18 services furnished at cost for use in making sales, but not for resale;
19 (b) the purchase of products where the seller offers to repurchase the
20 participant's products under reasonable commercial terms; or (c) time
21 and effort spent in the pursuit of sales or recruiting activities.

22 (3) "Consumers" are those persons who are not participants in the
23 plan, and those who are not purchasing in order to participate in the
24 plan.

25 (4) "Participant" means a person who contributes anything of value
26 into a pyramid scheme.

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

29 (6) "Promote" means:

30 (a) To contrive, prepare, establish, plan, operate, advertise, or
31 organize; or

32 (b) To induce or attempt to induce other persons to be a
33 participant.

34 (7) "Pyramid scheme" means any gift, sales, or marketing plan or
35 operation, including chain letters and gifting clubs, by whatever means
36 communicated, that includes the recruitment of additional participants,
37 regardless of number, to participate in the same or related gift,
38 sales, or marketing plan or operation, whereby a participant:

1 (a) Pays, gives, or promises a consideration of any kind, including
2 anything of value, or makes an investment of any kind or value; and

3 (b) Acquires the chance or opportunity to receive compensation that
4 is derived primarily from the person's introduction of other persons
5 into the plan or operation rather than from the sale of goods,
6 services, or other property sold in bona fide sales to consumers or
7 participants under reasonable commercial terms.

8 (8) "Reasonable commercial terms" means repurchase by the seller,
9 at the participant's request, and upon termination of the business
10 relationship or contract with the seller, of all unencumbered products
11 purchased by the participant from the seller within the previous twelve
12 months that are unused and in commercially resalable condition,
13 provided that repurchase by the seller shall be for not less than
14 ninety percent of the actual amount paid by the participant to the
15 seller of the products, less any consideration received by the
16 participant for purchase of the products that are being returned. A
17 product shall not be deemed nonresalable solely because the product is
18 no longer marketed by the seller, unless it is clearly disclosed to the
19 participant at the time of the sale, that the product is seasonal,
20 discontinued, or a special promotional product, and not subject to the
21 repurchase obligation.

22 NEW SECTION. **Sec. 3.** PROMOTING PYRAMID SCHEMES, CHAIN LETTERS, OR
23 RELATED SCHEMES--PROHIBITED AS ILLEGAL LOTTERIES--PENALTY. Pyramid
24 schemes are deemed illegal lotteries. Whoever shall participate in any
25 such pyramid scheme by organizing, becoming a participant of, or
26 affiliating with any such group or organization, or who shall solicit
27 any person for participation or affiliation in any such group or
28 organization, shall be deemed to be engaged in professional gambling as
29 defined in RCW 9.46.0269 and subject to the penalties set forth in
30 chapter 9.46 RCW for such conduct.

31 NEW SECTION. **Sec. 4.** MISREPRESENTATION OF LEGALITY--INTEGRATED
32 SCHEMES. (1) Any person who, while participating in any such pyramid
33 scheme, as described in sections 2 and 3 of this act, misrepresents the
34 legality of such a scheme, or represents that it has been approved,
35 reviewed, screened by, or in any way sanctioned by any governmental
36 authority, or misrepresents the benefits attending participation or the

1 longevity or durability of such a plan or scheme, shall be guilty of a
2 gross misdemeanor.

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

9 NEW SECTION. **Sec. 5.** CIVIL ACTION--CONSUMER PROTECTION VIOLATION.
10 The legislature finds that the prohibition of pyramid schemes as
11 defined in this chapter are matters vitally affecting the public
12 interest for purposes of applying the consumer protection act, chapter
13 19.86 RCW. A violation of this act is not reasonable in relation to
14 the development and preservation of business. A violation of this act
15 is an unfair or deceptive act or practice in trade or commerce and an
16 unfair method of competition for the purpose of applying the consumer
17 protection act, chapter 19.86 RCW.

18 NEW SECTION. **Sec. 6.** The following acts or parts of acts are each
19 repealed:

- 20 (1) RCW 19.102.010 (Definitions) and 1973 1st ex.s. c 33 s 1; and
21 (2) RCW 19.102.020 (Chain distributor schemes prohibited--Unfair
22 practice) and 1973 1st ex.s. c 33 s 2.

23 NEW SECTION. **Sec. 7.** Captions used in this act are not any part
24 of the law.

25 NEW SECTION. **Sec. 8.** Sections 1 through 5 and 7 of this act
26 constitute a new chapter in Title 9A RCW.

27 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 immediately.

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