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SENATE BILL 6416

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State of Washington

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By Senators Keiser, Hewitt, Rockefeller, Kohl-Welles, Prentice, Finkbeiner, Parlette, Sheldon, Deccio, Shin, Esser and Rasmussen

Read first time 01/12/2006. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to prohibiting pyramid promotional schemes; adding  
2 a new chapter to Title 19 RCW; and repealing RCW 19.102.010 and  
3 19.102.020.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that pyramid schemes,  
6 chain letters, and related illegal schemes are enterprises:

7 (1) That finance returns to participants through sums taken from  
8 newly attracted participants;

9 (2) In which new participants are promised large returns for their  
10 investment or contribution; and

11 (3) That involve unfair and deceptive sales tactics, including:  
12 Misrepresentations of sustainability, profitability and legality of the  
13 scheme, and false statements that the scheme is legal or approved by  
14 governmental agencies.

15 NEW SECTION. **Sec. 2.** The definitions in this section apply  
16 throughout this chapter unless the context clearly requires otherwise.

17 (1) "Compensation" means payment, regardless of how it is  
18 characterized, of money, financial benefit, or thing of value.

1 "Compensation" does not include payment based on the sale of goods or  
2 services to anyone who is purchasing the goods or services for actual  
3 use or consumption.

4 (2) "Consideration" means the payment, regardless of how it is  
5 characterized, of cash or the purchase of goods, services, or  
6 intangible property. "Consideration" does not include:

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

9 (b) The purchase of goods or services subject to a bona fide  
10 repurchase agreement as defined in subsection (5) of this section; or

11 (c) Time and effort spent in pursuit of sales or recruiting  
12 activities.

13 (3) "Person" means natural persons, corporations, trusts,  
14 partnerships, incorporated or unincorporated associations, or any other  
15 legal entity.

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

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

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

33 NEW SECTION. **Sec. 3.** (1) No person may establish, promote,  
34 operate, or participate in any pyramid scheme.

35 (2) A limitation as to the number of persons who may participate,  
36 or the presence of additional conditions affecting eligibility for the

1 opportunity to receive compensation under the scheme, does not change  
2 the identity of the scheme as a pyramid scheme.

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

8 NEW SECTION. **Sec. 4.** The legislature finds that the practices  
9 covered by this chapter are matters vitally affecting the public  
10 interest for the purpose of applying the consumer protection act,  
11 chapter 19.86 RCW. A violation of this chapter is not reasonable in  
12 relation to the development and preservation of business and is an  
13 unfair or deceptive act in trade or commerce and an unfair method of  
14 competition for the purpose of applying the consumer protection act,  
15 chapter 19.86 RCW.

16 NEW SECTION. **Sec. 5.** This act may be cited as the "antipyramid  
17 promotional scheme act."

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.** Sections 1 through 5 of this act constitute  
24 a new chapter in Title 19 RCW.

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