



1667 K Street, NW  
Suite 1100  
Washington, DC 20006  
202-452-8866 | 202-452-9010 Fax  
[www.dsa.org](http://www.dsa.org)

## **Testimony of Brian Bennett, Senior Director of Public Affairs and Advocacy**

**Ohio House of Representatives Financial Institutions, Housing, and Urban  
Development Committee  
October 10, 2017**

Good afternoon Chairman Dever, Ranking Member Smith and Members of the Committee, my name is Brian Bennett, and I represent the Direct Selling Association (DSA). DSA is the national trade association for companies that market products and services directly to consumers through an independent, entrepreneurial salesforce. We represent some of America's best-known and trusted brands. The American entrepreneurs who make up our salesforce typically market products or services on a part-time basis to neighbors, relatives, friends and families at a home, through a party, or online. In 2016, direct selling contributed more than \$35 billion to the U.S. economy, and Ohio had more than 554,000 independent direct sellers generating \$1.04 billion in revenue to the Ohio economy.

On behalf of the direct selling industry in Ohio, as well as the hundreds of thousands of Ohio consumers who purchase products and services from direct sellers, DSA strongly supports HB 329, anti-pyramid, consumer protection legislation to clarify existing law. The current law is deficient and does not draw a clear line of delineation between legitimate direct selling companies and pyramid schemes.

HB 329 will provide clarity and eliminate confusion in the marketplace for the following reasons:

- First, it would clarify enforcement by the Attorney General's office while enacting a law that will protect legitimate Ohio direct sellers.
- Second, it would clearly differentiate the legal income earning opportunities offered by legitimate direct selling companies from the scams perpetrated by fly-by-night promoters of pyramid schemes.

The Council of State Governments (CSG), one of the country's preeminent public policy organizations, adopted this legislative language in its 2004 Volume of Suggested State Legislation. Specific legislation was subsequently enacted into ten states. Eleven others states have statutes similar to the CSG language.

A pyramid scheme is a plan or operation that compensates primarily based on recruitment as opposed to the sale of products. What that means is that the only way you can make money in these plans is by recruiting other people. That business model is fraudulent, because there are only so many people to recruit, so people at the top of the pyramid are the small percentage that makes money, while people at the bottom lose out. Legitimate direct selling companies have a real product and demand for that product. Independent salespeople make money from commissions on the sale of products.

Or, they are incentivized for the sale of products by other people they may bring into their business. They are not incentivized only for bringing people into their business. The relationship between an upline individual (i.e. the person that brings another into the business) and downline individual (i.e. a person brought into the business) is beneficial for both. The upline individual mentors the downline and ensures that they have all the tools needed to sell and in many cases, gets a small percentage of what is sold. The downline individual gets a source of supplementary income and a mentor that helps them grow their business.

As the buying and selling of goods and services has rapidly evolved, laws and regulations must keep pace with the latest ways to do business. The current Ohio statute prohibiting pyramid schemes was enacted in 1974. One year later, in 1975, the federal government shut down an alleged pyramid scheme, Koscot Interplanetary. The ruling in this case provided the seminal legal precedent regarding prosecution of pyramid schemes. Since the Ohio statute was enacted

one year before this ruling, the current state law does not reflect this precedent. Passing this legislation would give Ohio an up-to-date statute consistent with case law and modern commerce.

The lack of a clear pyramid scheme law in statute may create confusion among the public, particularly when considering that some pyramid schemes masquerade as legitimate direct selling companies to defraud consumers. Specific language will strengthen state law enforcement's authority to prosecute bad actors.

DSA would like to thank Representative Pelanda for taking a leadership role providing clarity for Ohio businesses. We look forward to working collaboratively with her and the Attorney General's office on this important consumer protection legislation. Nobody wins when pyramid schemes prevail. Not consumers or legitimate direct selling companies. Thank you for considering DSA's views. I am happy to address any questions that members of the Committee may have if time allows.

###