

As Passed by the House

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Sub. H. B. No. 329

Representative Pelanda

Cosponsors: Representatives Dever, Anielski, Antonio, Arndt, Ashford, Blessing, Boyd, Brown, Craig, Galonski, Ginter, Green, Greenspan, Hambley, Holmes, Householder, Johnson, Koehler, Lanese, Lepore-Hagan, Manning, O'Brien, Patterson, Patton, Rogers, Ryan, Schaffer, Smith, K., Sweeney, Sykes, West, Young

A BILL

To amend sections 1333.91, 1333.92, 1333.93, and 1333.94 of the Revised Code to modify the law governing pyramid promotional schemes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1333.91, 1333.92, 1333.93, and 1333.94 of the Revised Code be amended to read as follows:

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

(A) "Pyramid sales plan or program promotional scheme" means any ~~scheme, whether or not for the disposal or distribution of property, whereby a person pays a plan or operation by which individuals pay~~ 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,~~ 16

~~(2) When another participant has introduced a person into~~ 17
~~participation in the plan or program that is derived primarily~~ 18
~~from recruiting other individuals into the plan or operation~~ 19
~~rather than from the sale of products or services to ultimate~~ 20
~~users or from the consumption or use of products or services by~~ 21
~~ultimate users.~~ 22

(B) "Compensation" means money, financial benefit, or 23
anything of value. Compensation does not include payment based 24
upon sales made to persons who are not participants in a pyramid 25
~~sales plan or program promotional scheme,~~ and who are not 26
purchasing in order to participate in the plan or ~~program~~ 27
operation. 28

(C) "Consideration" means the payment of money or anything 29
of value or the purchase of products, services, or intangible 30
property. The term does not include: 31

(1) Payment for sales demonstration equipment and 32
materials furnished at cost, ~~whereby no profit, commission, fee,~~ 33
~~rebate or other benefit is realized by any person in the sales~~ 34
~~plan,~~ for use in making sales and not for resale; 35

~~(2) Payment for promotional and administrative fees not to~~ 36
~~exceed twenty five dollars when computed on an annual basis. Any~~ 37
~~time or effort spent in pursuit of sales or recruiting~~ 38
activities. 39

(D) ~~"Participant"~~ "Ultimate user" means ~~a person an~~ 40
individual who purchases, proposes, plans, prepares, or offers 41
~~the opportunity to take part in, or advance into, a pyramid~~ 42
~~sales plan or program consumes or uses a product or service,~~ 43
whether or not the individual is a participant in the plan or 44

operation. 45

Sec. 1333.92. No person shall propose, plan, prepare, or 46
operate a pyramid ~~sales plan or program~~ promotional scheme. 47

Sec. 1333.93. Any contract made in violation of section 48
1333.92 of the Revised Code is void. Any ~~person~~ individual who 49
has paid consideration for the chance or opportunity to 50
participate in a pyramid ~~sales plan or program~~ promotional 51
scheme may recover, in a civil action, the amount of the 52
consideration paid, together with reasonable attorney fees, from 53
any participant who has received compensation under either of 54
the following circumstances: 55

(A) For introducing the ~~person~~ individual into 56
participation in a pyramid ~~sales plan or program~~ promotional 57
scheme; 58

(B) When another participant has introduced the ~~person~~ 59
individual into participation in a pyramid ~~sales plan or program~~ 60
promotional scheme. 61

Sec. 1333.94. (A) Failure to comply with section 1333.92 62
of the Revised Code constitutes an unfair or deceptive act or 63
practice in connection with a consumer transaction in violation 64
of section 1345.02 of the Revised Code. 65

(B) The attorney general may do the following: 66

(1) Whenever it appears that a person is violating or 67
about to violate section 1333.92 of the Revised Code, ~~the~~ 68
~~attorney general may~~ bring an action in the court of common 69
pleas to enjoin the violation. Upon a proper showing, a 70
temporary restraining order, or a preliminary or permanent 71
injunction shall be granted without bond. The court may impose a 72
penalty of not more than five thousand dollars for each day of 73

violation of a temporary restraining order or preliminary or 74
permanent injunction issued under this section. 75

(2) Use all the powers and remedies available to the 76
attorney general to enforce sections 1345.01 to 1345.13 of the 77
Revised Code to enforce sections 1333.91 to 1333.94 of the 78
Revised Code. 79

Section 2. That existing sections 1333.91, 1333.92, 80
1333.93, and 1333.94 of the Revised Code are hereby repealed. 81