

AN ACT

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;~~

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

(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 promotional scheme~~, and who are not purchasing in order to participate in the plan or ~~program operation~~.

(C) "Consideration" means the payment of money or anything of value or the purchase of products, services, or intangible property. The term 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~~ Any time or effort spent in pursuit of sales or recruiting activities.

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

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

Sec. 1333.93. Any contract made in violation of section 1333.92 of the Revised Code is void. Any ~~person individual~~ who has paid consideration for the chance or opportunity to participate in a pyramid ~~sales plan or program promotional scheme~~ may recover, in a civil action, the amount of the

consideration paid, together with reasonable attorney fees, from any participant who has received compensation under either of the following circumstances:

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

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

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

(B) The attorney general may do the following:

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

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

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

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____