

DIRECT SALES AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill amends Title 76, Chapter 6a, Pyramid Scheme Act.

Highlighted Provisions:

This bill:

- ▶ defines "compensation" to exclude commissions earned for the sale of goods or services for actual consumption;
- ▶ makes participation in a pyramid scheme only by receiving compensation for recruiting another person a class B misdemeanor; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6a-2, as enacted by Chapter 89, Laws of Utah 1983

76-6a-3, as enacted by Chapter 89, Laws of Utah 1983



29 **76-6a-4**, as last amended by Chapter 38, Laws of Utah 1993

30

31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **76-6a-2** is amended to read:

33 **76-6a-2. Definitions.**

34 As used in this chapter:

35 [~~2~~] (1) (a) "Compensation" means ~~H~~→ **money**, ←~~H~~ money bonuses, [~~commissions~~];

35a overrides, prizes,

36 or other real or personal property, tangible or intangible.

37 (b) "Compensation" does not include payment based on the sale of goods or services to

38 anyone purchasing the goods or services for actual ~~H~~→ **personal** ←~~H~~ use or consumption.

39 [~~1~~] (2) "Consideration" does not include payment for sales demonstration equipment

40 and materials furnished at cost for use in making sales and not for resale, or time or effort spent

41 in selling or recruiting activities.

42 (3) "Person" includes a business trust, estate, trust, joint venture, or any other legal or

43 commercial entity.

44 (4) "Pyramid scheme" means any sales device or plan under which a person gives

45 consideration to another person in exchange for compensation or the right to receive

46 compensation which is derived primarily from the introduction of other persons into the sales

47 device or plan rather than from the sale of goods, services, or other property.

48 Section 2. Section **76-6a-3** is amended to read:

49 **76-6a-3. Schemes prohibited -- Violation as deceptive consumer sales practice --**

50 **Prosecution of civil violations.**

51 (1) A person may not participate in, organize, establish, promote, or administer any

52 pyramid scheme.

53 (2) A criminal conviction under this chapter is prima facie evidence of a violation of

54 Section 13-11-4, the Utah Consumer Sales Practices Act.

55 (3) Any violation of this chapter constitutes a violation of Section 13-11-4, the Utah

56 Consumer Sales Practices Act.

57 (4) All civil violations of this chapter shall be investigated and prosecuted as

58 prescribed by the Utah Consumer Sales Practices Act.

59 Section 3. Section **76-6a-4** is amended to read:

60 **76-6a-4. Operation as felony -- Investigation -- Prosecution.**

61 (1) Any person who knowingly organizes, establishes, promotes, or administers a
62 pyramid scheme is guilty of a third degree felony.

63 (2) Any person who participates in a pyramid scheme only by receiving compensation
64 for the introduction of other persons into the pyramid scheme rather than from the sale of
65 goods, services, or other property is guilty of a class B misdemeanor.

66 [~~2~~] (3) The appropriate county attorney or district attorney has primary responsibility
67 for investigating and prosecuting criminal violations of this chapter.

Legislative Review Note
as of 1-26-06 12:16 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel