

**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
  - 76-6a-4**, as last amended by Chapter 38, Laws of Utah 1993
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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 money, money bonuses, [~~commissions;~~] overrides,  
36 prizes, 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 personal 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 -- Participation as misdemeanor -- Investigation --**  
61 **Prosecution.**

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

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

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