

## **CHAPTER 51-16.1**

### **PYRAMID PROMOTIONAL AND REFERRAL SALES SCHEMES**

#### **51-16.1-01. Definitions.**

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Compensation" includes a payment based on a sale or distribution made to a person who either is a participant in a pyramid promotional scheme or has the right to become a participant upon payment.
2. "Consideration" means the payment of cash or the purchase of goods, services, or intangible property but does not include:
  - a. The purchase of goods or services furnished at cost to be used in making sales and not for resale; or
  - b. Time and effort spent in pursuit of sales or recruiting activities.
3. "Pyramid promotional scheme" means any plan or operation by which a participant gives consideration for the opportunity to receive compensation which is derived primarily from any person's introduction of other persons into participation in the plan or operation rather than from the sale of goods, services, or intangible property by the participant or other persons introduced into the plan or operation.

#### **51-16.1-02. Pyramid promotional schemes prohibited - Defenses excluded.**

1. No person may establish, operate, advertise, or promote a pyramid promotional scheme.
2. It is not a defense to a criminal or civil prosecution under this section that:
  - a. The plan contains a limitation as to the number of persons who may participate or the presence of additional conditions affecting eligibility for the opportunity to receive compensation under the plan or operation; or
  - b. A participant, on giving consideration, obtains any goods, services, or intangible property in addition to the right to receive compensation.

#### **51-16.1-03. Referral selling prohibited.**

No seller or lessor may give or offer a rebate, discount, or anything of value to a buyer or lessee as an inducement for a sale or lease in consideration of the buyer or lessee giving to the seller or lessor the names of prospective purchasers or lessees, or otherwise aiding the seller or lessor in making a sale to another person, if the earning of the rebate, discount, or other thing of value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to the sale or lease.

#### **51-16.1-04. Penalty - Civil remedies.**

Any person, including the officers and directors of any company, violating any of the provisions of this chapter is:

1. Guilty of a class A misdemeanor, but a person who has been previously convicted of a class A misdemeanor under this chapter may be charged with and convicted of a class C felony for any violation which occurs after the previous conviction;
2. Deemed to have committed an unlawful practice in violation of section 51-15-02 and subject to all provisions, procedures, and penalties of chapter 51-15; and
3. Notwithstanding any agreement to the contrary, subject to the right of any purchaser in a pyramid promotional scheme or referral selling scheme to declare the sale or contract void and also subject to an action in a court of competent jurisdiction by any purchaser to recover three times the damages sustained by the purchaser in participating in the scheme, plus reasonable attorney's fees and costs.

#### **51-16.1-05. Scope of remedies.**

1. The rights and remedies that this chapter grants to purchasers in pyramid promotional schemes and referral selling schemes are independent of and supplemental to any

other right or remedy available to them in law or equity, and nothing contained herein may be construed to diminish or to abrogate any such right or remedy.

2. The provisions of this chapter are in addition to all other causes of action, remedies, and penalties available to the state or any of its governmental agencies.