

1 A bill to be entitled
2 An act relating to the prohibition of pyramid
3 promotional schemes; providing a short title; amending
4 s. 849.091, F.S.; deleting provisions relating to
5 pyramid sales schemes; creating s. 849.0913, F.S.;
6 providing definitions; prohibiting a person from
7 establishing, promoting, operating, or participating
8 in a pyramid promotional scheme; providing
9 construction; requiring the Department of Legal
10 Affairs to issue and serve a complaint and cease and
11 desist order in certain instances; establishing
12 procedures for cease and desist orders; providing
13 penalties; providing for restitution; authorizing the
14 department to apply for an injunction; providing
15 requirements for an injunction; authorizing the court
16 to appoint a receiver; providing for the powers and
17 duties of such receivership; authorizing the court to
18 issue an order to stay certain actions and requiring
19 such actions be assigned to the judge who appointed
20 the receiver; providing that specified provisions and
21 penalties are in addition to civil, administrative, or
22 criminal actions provided by law; providing an
23 effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 **Section 1.** This act may be cited as the "Direct Sales
28 Consumer Protection Act."

29 **Section 2. Section 849.091, Florida Statutes, is amended**
30 **to read:**

31 849.091 Chain letters, pyramid clubs, etc., declared a
32 lottery; prohibited; penalties.—

33 ~~(1)~~ The organization of any chain letter club, pyramid
34 club, or other group organized or brought together under any
35 plan or device whereby fees or dues or anything of material
36 value to be paid or given by members thereof are to be paid or
37 given to any other member thereof, which plan or device includes
38 any provision for the increase in such membership through a
39 chain process of new members securing other new members and
40 thereby advancing themselves in the group to a position where
41 such members in turn receive fees, dues, or things of material
42 value from other members, is hereby declared to be a lottery,
43 and whoever shall participate in any such lottery by becoming a
44 member of, or affiliating with, any such group or organization
45 or who shall solicit any person for membership or affiliation in
46 any such group or organization commits a misdemeanor of the
47 first degree, punishable as provided in s. 775.082 or s.
48 775.083.

49 ~~(2) A "pyramid sales scheme," which is any sales or~~
50 ~~marketing plan or operation whereby a person pays a~~

~~consideration of any kind, or makes an investment of any kind,
in excess of \$100 and acquires the opportunity to receive a
benefit or thing of value which is not primarily contingent on
the volume or quantity of goods, services, or other property
sold in bona fide sales to consumers, and which is related to
the inducement of additional persons, by himself or herself or
others, regardless of number, to participate in the same sales
or marketing plan or operation, is hereby declared to be a
lottery, and whoever shall participate in any such lottery by
becoming a member of or affiliating with, any such group or
organization or who shall solicit any person for membership or
affiliation in any such group or organization commits a
misdemeanor of the first degree, punishable as provided in s.
775.082 or s. 775.083. For purposes of this subsection, the term
"consideration" and the term "investment" do not include the
purchase of goods or services furnished at cost for use in
making sales, but not for resale, or time and effort spent in
the pursuit of sales or recruiting activities.~~

**Section 3. Section 849.0913, Florida Statutes, is created
to read:**

849.0913 Pyramid promotional schemes prohibited;
enforcement; remedies; penalties.-

(1) As used in this section, the term:

(a) "Compensation" means a payment of any money, thing of
value, or financial benefit conferred in return for inducing a

76 person to participate in a pyramid promotional scheme.

77 (b) "Consideration" means the payment of money or the
78 purchase of a product, good, service, or intangible property.
79 The term does not include the purchase of a product or service
80 furnished at cost to be used in making a sale and not for resale
81 or any time and effort spent in pursuit of sales or recruiting
82 activities.

83 (c) "Department" means the Department of Legal Affairs.

84 (d) "Participant" means a person who takes part in a
85 pyramid promotional scheme.

86 (e) "Pyramid promotional scheme" means a plan or operation
87 in which a person pays or gives consideration for the right to
88 receive compensation that is based on recruiting other persons
89 into the plan or operation rather than from the sale and
90 consumption of products, goods, services, or intangible property
91 by a participant or other person introduced into the plan or
92 operation. The term includes a plan or operation in which the
93 number of persons who may participate is limited either
94 expressly or by the application of conditions affecting the
95 eligibility of a person to receive compensation under the plan
96 or operation, or a plan or operation in which a person, upon
97 giving consideration, obtains any products, goods, services, or
98 intangible property in addition to the right to receive
99 compensation.

100 (2) A person may not establish, promote, operate, or

101 participate in a pyramid promotional scheme, even if such
102 person, upon giving consideration, obtains products, goods,
103 services, or intangible property in addition to the right to
104 receive compensation.

105 (3)(a) This section does not prohibit a plan or operation
106 in which participants give consideration in return for the right
107 to receive compensation based on the purchase of products,
108 goods, services, or intangible property by participants for
109 personal use, consumption, or resale so long as the plan or
110 operation:

111 1. Does not promote or induce a practice in which a
112 pyramid promotional scheme requires its independent salesperson
113 to purchase inventory in an amount exceeding that which the
114 salesperson can expect to resell for ultimate consumption or
115 consumption in a reasonable time period, or both; and

116 2. Implements a program in which a plan or operation
117 repurchases from a salesperson, upon request and pursuant to
118 commercially reasonable terms, current and marketable inventory
119 in the possession of the salesperson which was purchased during
120 his or her business relationship for resale. Such plan or
121 operation must clearly describe the program in its business
122 recruiting literature, sales manual, or contract with
123 independent salespersons, including the disclosure of inventory
124 that is not eligible for repurchase under the program.

125 (b) For purposes of this subsection, the term:

126 1. "Inventory" includes products, goods, and services,
127 including company-produced promotional materials, sales aids,
128 and sales kits that the plan or operation requires independent
129 salespersons to purchase.

130 2. "Commercially reasonable terms" means the repurchase of
131 current and marketable inventory within 12 months after the date
132 of purchase at not less than 90 percent of the original net
133 cost, less appropriate setoffs and legal claims, if any.

134 3. "Current and marketable inventory" does not include any
135 inventory that:

136 a. Is no longer within its commercially reasonable use or
137 shelf-life period;

138 b. Was clearly described to the salesperson before
139 purchase as being seasonal, discontinued, or special promotional
140 goods, products, or services that are not subject to the
141 inventory repurchase program; or

142 c. Has been used or opened.

143 (4) (a) Whenever the department has reason to believe that
144 a person has been, or is, violating this section, and if it
145 appears to the department that a cease and desist order against
146 such person would be in the interest of the public, the
147 department shall issue and serve upon such person a complaint
148 and cease and desist order stating its charges in that respect
149 and containing a notice of a hearing upon a day and at the place
150 therein fixed at least 15 days after the service of the

151 complaint. The hearing shall be held in conformity with chapter
152 120.

153 (b) The department may modify or set aside its order at
154 any time by rehearing upon its own motion when such rehearing is
155 in the interest of the public welfare.

156 (c) Judicial review of orders of the department shall be
157 in accordance with s. 120.68 and shall take precedence over
158 other civil cases pending and shall be expedited in every way.

159 (d) An order of the department to cease and desist does
160 not become effective until 10 days after all administrative
161 action has been concluded or, if appeal is made to the district
162 court of appeal and bond is posted, until a final order has been
163 entered by that court.

164 (e) A cease and desist order may not act as a limitation
165 upon any other action or remedy available.

166 (f) When a court remands an order of the department for
167 rehearing, such rehearing must be held within 45 days after the
168 remand.

169 (g) Any person who violates a cease and desist order of
170 the department after it has become final and while such order is
171 in effect shall forfeit and pay to the state a civil penalty of
172 up to \$10,000 for each violation which shall accrue to the state
173 and may be recovered in a civil action brought by the state.
174 Each separate violation of such an order shall be a separate
175 offense, except that in the case of a violation through

176 continuing failure or neglect to obey a final order of the
177 department, each day of continuance of such failure or neglect
178 shall be deemed a separate offense.

179 (5) (a) Whenever the department has reason to believe that
180 a person has been, or is, violating this section, the person
181 must be prosecuted by the department in accordance with s.
182 16.56.

183 (b) Any person who is convicted of establishing,
184 promoting, or operating a pyramid promotional scheme is guilty
185 of a felony of the third degree, punishable as provided in s.
186 775.082, s. 775.083, or s. 775.084.

187 (c) Any person who is convicted of participating in a
188 pyramid promotional scheme is guilty of a misdemeanor of the
189 first degree, punishable as provided in s. 775.082 or s.
190 775.083.

191 (d) When a person is convicted of an offense under this
192 section, the court, pursuant to s. 775.089, shall order the
193 person to pay restitution to the victim of the offense. In
194 determining the value of the property loss, the court shall
195 include expenses incurred in the investigation or prosecution of
196 the offense as well as the disgorgement of any profits realized
197 by a person convicted of the offense.

198 (6) (a) In addition to the remedies provided in this
199 section, the department may apply to any circuit court of this
200 state for the issuance of a temporary or permanent injunction,

201 or both, for the purpose of enforcing this section. In any such
202 action, an order or judgment may be entered awarding such
203 temporary or permanent injunction as may be deemed proper. Such
204 injunction must be issued without bond. A single act in
205 violation of this section is sufficient to authorize the
206 issuance of an injunction.

207 (b) In addition to all other means provided by law for the
208 enforcement of an injunction, the court in which such action is
209 brought shall have power and jurisdiction to appoint one or more
210 receivers for the property and business of a person who has
211 been, or is, violating this section, including books, papers,
212 documents, and records pertaining thereto, or as much thereof as
213 the court may deem reasonably necessary to prevent violations of
214 the law or injury to the public through, or by means of, the use
215 of such property and business. The receiver, when so appointed
216 and qualified, shall have such powers and duties as to custody,
217 collection, administration, winding up, and liquidation of such
218 property and business as is, from time to time, conferred upon
219 him or her by the court. In any such action, the court may issue
220 an order staying all pending civil actions and the court, in its
221 discretion, may require that all civil actions be assigned to
222 the circuit court judge who appointed the receiver.

223 (7) The provisions and penalties set forth in this section
224 are in addition to any other civil, administrative, or criminal
225 action provided by law.

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226 | **Section 4.** This act shall take effect July 1, 2026. |