



SENATE BILL No. 1162

September 18, 1996, Introduced by Senators NORTH, MC MANUS, GAST, GOUGEON and SCHUETTE and referred to the Committee on Agriculture and Forestry.

A bill to amend section 2 of Act No. 331 of the Public Acts of 1976, entitled

"Michigan consumer protection act,"

as amended by Act No. 91 of the Public Acts of 1984, being section 445.902 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2 of Act No. 331 of the Public Acts of
2 1976, as amended by Act No. 91 of the Public Acts of 1984, being
3 section 445.902 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 2. As used in this act:

6 (a) "Business opportunity" means the sale or lease of any
7 products, equipment, supplies, or services for the purpose of
8 enabling the purchaser to start a business, and in which the
9 seller represents 1 or more of the following:

1 (i) That the seller will provide locations or assist the
2 purchaser in finding locations for the use or operation of vend-
3 ing machines, racks, display cases, or other similar devices, or
4 currency operated amusement machines or devices, on premises nei-
5 ther owned nor leased by the purchaser or seller.

6 (ii) That the seller may, in the ordinary course of busi-
7 ness, purchase any or all products made, produced, fabricated,
8 grown, bred, or modified by the purchaser WHOLLY OR PARTIALLY
9 using ~~whole or in part~~ the supplies, services, or chattels sold
10 to the purchaser.

11 (iii) The seller guarantees that the purchaser will derive
12 income from the business opportunity ~~which~~ THAT exceeds the
13 price paid for the business opportunity; or that the seller will
14 refund all or part of the price paid for the business opportuni-
15 ty, or repurchase any of the products, equipment, supplies, or
16 chattels supplied by the seller, if the purchaser is unsatisfied
17 with the business opportunity. As used in this subparagraph,
18 "guarantee" means a written or oral representation that would
19 cause a reasonable person in the purchaser's position to believe
20 that income is assured.

21 (iv) That the seller will provide a sales program or market-
22 ing program ~~which~~ THAT will enable the purchaser to derive
23 income from the business opportunity ~~which~~ THAT exceeds the
24 price paid for the business opportunity. This subparagraph does
25 not apply to the sale of a marketing program made in conjunction
26 with the licensing of a federally registered trademark or a
27 federally registered service mark, or to the sale of a business

1 opportunity for which the purchaser pays less than \$500.00 in
2 total for the business opportunity from anytime before the date
3 of sale to anytime within 6 months after the date of sale.

4 Business opportunity ~~as used in this act,~~ does not
5 include the sale of a franchise as defined in section 2 of THE
6 FRANCHISE INVESTMENT LAW, Act No. 269 of the Public Acts of 1974,
7 being section 445.1502 of the Michigan Compiled Laws, or the sale
8 of an ongoing business if the owner of that business sells and
9 intends to sell only that single business opportunity.

10 (b) "Documentary material" includes the original or copy of
11 a book, record, report, memorandum, paper, communication, tabula-
12 tion, map, chart, photograph, mechanical transcription, or other
13 tangible document or recording, wherever situated.

14 (c) "Person" means a natural person, corporation, trust,
15 partnership, incorporated or unincorporated association, or other
16 legal entity.

17 (d) "Trade or commerce" means the conduct of a business pro-
18 viding goods, property, or service primarily for personal,
19 family, or household purposes and includes the advertising,
20 solicitation, offering for sale or rent, sale, lease, or distri-
21 bution of a service or property, tangible or intangible, real,
22 personal, or mixed, or any other article, or a business
23 opportunity. "Trade or commerce" ~~does not include the purchase~~
24 ~~or sale of a franchise, but does include~~ INCLUDES pyramid and
25 chain promotions ~~as "franchise", "pyramid", and "chain~~
26 ~~promotions"~~ THOSE TERMS are defined in SECTION 28 OF Act No. 269
27 of the Public Acts of 1974, being ~~sections 445.1501 to 445.1545~~

1 SECTION 445.1528 of the Michigan Compiled Laws, BUT DOES NOT
2 INCLUDE EITHER OF THE FOLLOWING:

3 (i) THE PURCHASE OR SALE OF A FRANCHISE AS THAT TERM IS
4 DEFINED IN SECTION 2 OF ACT NO. 269 OF THE PUBLIC ACTS OF 1974.

5 (ii) AN EMPLOYER'S PROVISION OF RENT-FREE HOUSING TO AN
6 EMPLOYEE AS A BENEFIT OR CONDITION OF EMPLOYMENT.