

SENATE BILL No. 1252

May 9, 2000, Introduced by Senator EMMONS and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

A bill to amend 1976 PA 331, entitled
"Michigan consumer protection act,"
by amending section 2 (MCL 445.902), as amended by 1984 PA 91.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

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

6 (i) That the seller will provide locations or assist the
7 purchaser in finding locations for the use or operation of vend-
8 ing machines, racks, display cases, or other similar devices, or
9 currency operated amusement machines or devices, on premises
10 neither owned nor leased by the purchaser or seller.

1 (ii) That the seller may, in the ordinary course of
2 business, purchase any or all products made, produced,
3 fabricated, grown, bred, or modified by the purchaser using whole
4 or in part the supplies, services, or chattels sold to the
5 purchaser.

6 (iii) The seller guarantees that the purchaser will derive
7 income from the business opportunity which exceeds the price paid
8 for the business opportunity; or that the seller will refund all
9 or part of the price paid for the business opportunity, or repur-
10 chase any of the products, equipment, supplies, or chattels sup-
11 plied by the seller — if the purchaser is unsatisfied with the
12 business opportunity. As used in this subparagraph, "guarantee"
13 means a written or oral representation that would cause a reason-
14 able person in the purchaser's position to believe that income is
15 assured.

16 (iv) That the seller will provide a sales program or market-
17 ing program which will enable the purchaser to derive income from
18 the business opportunity which exceeds the price paid for the
19 business opportunity. This subparagraph does not apply to the
20 sale of a marketing program made in conjunction with the licens-
21 ing of a federally registered trademark or a federally registered
22 service mark, or to the sale of a business opportunity for which
23 the purchaser pays less than \$500.00 in total for the business
24 opportunity ~~from anytime before the date of sale to anytime~~
25 DURING THE PERIOD BEFORE AND within 6 months after the date of
26 sale.

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

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

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

15 (d) "Trade or commerce" means the conduct of a business pro-
16 viding goods, property, or service primarily for personal,
17 family, or household purposes and includes the advertising,
18 solicitation, offering for sale or rent, sale, lease, or distri-
19 bution of a service or property, tangible or intangible, real,
20 personal, or mixed, or any other article, or a business
21 opportunity. "Trade or commerce" does not include the purchase
22 or sale of a franchise, but does include pyramid and chain promo-
23 tions, as "franchise", "pyramid", and "chain promotions" are
24 defined in ~~Act No. 269 of the Public Acts of 1974, being sec-~~
25 ~~tions 445.1501 to 445.1545 of the Michigan Compiled Laws.~~ THE
26 FRANCHISE INVESTMENT LAW, 1974 PA 269, MCL 445.1501 TO 445.1546.

1 TRADE OR COMMERCE INCLUDES, BUT IS NOT LIMITED TO, PROVIDING OR
2 OFFERING ELECTIVE SURGICAL PROCEDURES.