

# HOUSE BILL No. 5729

March 15, 2018, Introduced by Reps. Iden, Lucido, Marino, Noble, Leutheuser and Hornberger and referred to the Committee on Commerce and Trade.

A bill to amend 1976 PA 331, entitled  
"Michigan consumer protection act,"  
by amending section 2 (MCL 445.902), as amended by 2006 PA 508.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2. (1) As used in this act:

2           (a) Subject to subsection (2), "business opportunity" means  
3 the sale or lease of any products, equipment, supplies, or services  
4 for the purpose of enabling the purchaser to start a business, and  
5 in which the 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 vending  
8 machines, racks, display cases, or other similar devices, or  
9 currency operated amusement machines or devices, on premises

1 neither owned nor leased by the purchaser or seller.

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

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

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

25 (b) "Documentary material" includes the original or copy of a  
26 book, record, report, memorandum, paper, communication, tabulation,  
27 map, chart, photograph, mechanical transcription, or other tangible

1 document or recording, wherever situated.

2 (c) "Performing group" means a vocal or instrumental group  
3 seeking to use the name of another group that has previously  
4 released a commercial sound recording under that name.

5 (d) "Person" means ~~a natural person,~~ **AN INDIVIDUAL,**  
6 corporation, limited liability company, trust, partnership,  
7 incorporated or unincorporated association, or other legal entity.

8 (e) "Recording group" means a vocal or instrumental group that  
9 meets both of the following:

10 (i) At least 1 of the members of the group has previously  
11 released a commercial sound recording under the group's name.

12 (ii) At least 1 of the members of the group has a legal right  
13 to use the group's name, by virtue of use or operation under the  
14 group's name without abandoning the name of or affiliation with the  
15 group.

16 (f) "Sound recording" means a work that results from the  
17 fixation on a material object of a series of musical, spoken, or  
18 other sounds regardless of the nature of the material object, such  
19 as a disk, tape, or other phono-record, in which the sounds are  
20 embodied.

21 (g) "Trade or commerce" means the conduct of a business  
22 providing goods, property, or service primarily for personal,  
23 family, or household purposes and includes the advertising,  
24 solicitation, offering for sale or rent, sale, lease, or  
25 distribution of a service or property, tangible or intangible,  
26 real, personal, or mixed, or any other article, or a business  
27 opportunity. "Trade or commerce" does not include the purchase or

1 sale of a franchise, but does include ~~pyramid and chain promotions,~~  
2 as ~~"franchise", "pyramid", and "chain promotions"~~ are defined in  
3 the ~~franchise investment law, 1974 PA 269, MCL 445.1501 to~~  
4 ~~445.1546.~~ **A PYRAMID PROMOTIONAL SCHEME THAT VIOLATES THE PYRAMID**  
5 **PROMOTIONAL SCHEME ACT, MCL 445.2581 TO 445.2585.**

6 (2) As used in this act, "business opportunity" does not  
7 include a sale of a franchise as defined in section 2 of the  
8 franchise investment law, 1974 PA 269, MCL 445.1502, or the sale of  
9 an ongoing business if the owner of the business sells and intends  
10 to sell only that single business opportunity.

11 Enacting section 1. This amendatory act takes effect 90 days  
12 after the date it is enacted into law.

13 Enacting section 2. This amendatory act does not take effect  
14 unless Senate Bill No. \_\_\_\_ or House Bill No. 5726 (request no.  
15 04879'17) of the 99th Legislature is enacted into law.