

Act No. 189  
Public Acts of 2018  
Approved by the Governor  
June 12, 2018  
Filed with the Secretary of State  
June 13, 2018  
EFFECTIVE DATE: September 11, 2018

**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2018**

**Introduced by Reps. Iden, Lucido, Marino, Noble, Leutheuser and Hornberger**

# **ENROLLED HOUSE BILL No. 5729**

AN ACT to amend 1976 PA 331, entitled “An act to prohibit certain methods, acts, and practices in trade or commerce; to prescribe certain powers and duties; to provide for certain remedies, damages, and penalties; to provide for the promulgation of rules; to provide for certain investigations; and to prescribe penalties,” by amending section 2 (MCL 445.902), as amended by 2006 PA 508.

*The People of the State of Michigan enact:*

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

(a) Subject to subsection (2), “business opportunity” means the sale or lease of any products, equipment, supplies, or services for the purpose of enabling the purchaser to start a business, and in which the seller represents 1 or more of the following:

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

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

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

(iv) That the seller will provide a sales program or marketing program which will enable the purchaser to derive income from the business opportunity that exceeds the price paid for the business opportunity. This subparagraph does not apply to the sale of a marketing program made in conjunction with the licensing of a federally registered trademark or a federally registered service mark, or to the sale of a business opportunity for which the purchaser pays less than \$500.00 in total for the business opportunity from any time before the date of sale to any time within 6 months after the date of sale.

(b) “Documentary material” includes the original or copy of a book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situated.

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

(d) "Person" means an individual, corporation, limited liability company, trust, partnership, incorporated or unincorporated association, or other legal entity.

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

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

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

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

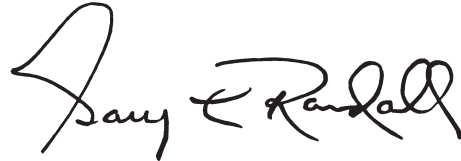
(g) "Trade or commerce" means the conduct of a business providing goods, property, or service primarily for personal, family, or household purposes and includes the advertising, solicitation, offering for sale or rent, sale, lease, or distribution of a service or property, tangible or intangible, real, personal, or mixed, or any other article, or a business opportunity. "Trade or commerce" does not include the purchase or sale of a franchise, as defined in section 2 of the franchise investment law, 1974 PA 269, MCL 445.1502, but does include a pyramid promotional scheme as defined in section 2 of the pyramid promotional scheme act, MCL 445.2582.

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

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

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5726 of the 99th Legislature is enacted into law.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved.....

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Governor