COMMITTEE REPORT

April 26, 2017

**H. 3883**

Introduced by Reps. Sandifer and Pope

S. Printed 4/26/17--H.

Read the first time March 2, 2017.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3883) to amend the Code of Laws of South Carolina, 1976, to enact the “Pyramid Promotional Scheme Prohibition Act” by adding Article 7 to Chapter 5, Title 39 so, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 1, beginning on line 35, by striking Section 39‑5‑720, as contained in SECTION 1 and inserting:

/ Section 39‑5‑720. As used in this article:

(1) ‘Compensation’ means the payment of money, a thing of value, or a benefit.

(2) ‘Consideration’ means either the payment of money or the provision of a thing of value for the purchase of a product, good, service, or intangible property. Consideration does not include:

(a) the purchase of a product, furnished at cost, for use in making a sale, but not for resale, of the purchased product itself; or

(b) time and effort spent to pursue a sale or recruiting activity.

(3) ‘Pyramid promotional scheme’ means a plan or operation in which an individual pays consideration for the right to receive compensation based primarily upon recruiting other individuals into the plan or operation instead of selling products or services to ultimate users for their use or consumption.

(4) ‘Ultimate users’ are individuals who consume or use the products or services, whether or not they are participants in the plan or operation. /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “PYRAMID PROMOTIONAL SCHEME PROHIBITION ACT” BY ADDING ARTICLE 7 TO CHAPTER 5, TITLE 39 SO AS TO PROVIDE PYRAMID PROMOTIONAL SCHEMES CONSTITUTE UNFAIR TRADE PRACTICES UNDER THE SOUTH CAROLINA UNFAIR TRADE PRACTICES ACT, AND TO PROVIDE NECESSARY DEFINITIONS; AND TO REPEAL SECTION 39‑5‑30 RELATING TO PYRAMID CLUBS AND SIMILAR OPERATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 5, Title 39 of the 1976 Code is amended by adding:

“Article 7

Pyramid Promotional Scheme Prohibition Act

Section 39‑5‑710. This article must be known and may be cited as the ‘Pyramid Promotional Scheme Prohibition Act’.

Section 39‑5‑720. As used in this article:

(1) ‘Compensation’ means the payment of money, a thing of value, or a benefit.

(2) ‘Consideration’ means either the payment of money or the provision of a thing of value for the purchase of a product, good, service, or intangible property. Consideration does not include:

(a) the purchase of a product, furnished at cost, for use in making a sale, but not for resale, of the purchased product itself; or

(b) time and effort spent to pursue a sale or recruiting activity.

(3) ‘Pyramid promotional scheme’ means a plan or operation in which an individual pays consideration for the right to receive compensation based primarily upon his recruiting of other individuals into the plan or operation instead of his selling of products or services to ultimate users for their use or consumption.

(4) ‘Ultimate users’ are individuals who consume or use the products or services in a pyramid promotional scheme, whether or not they are participants in the scheme.

Section 39‑5‑730. A pyramid promotional scheme is an unfair trade practice pursuant to Section 39‑5‑20(a), and accordingly, is prohibited in this State.”

SECTION 2. Section 39‑5‑30 of the 1976 Code is repealed.

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor.

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