

Senate Bill 141

By: Senator Balfour of the 9th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
2 relating to gambling and related offenses, so as to prohibit pyramid promotional schemes;
3 to provide definitions; to provide for penalties and procedures; to provide for other related
4 matters; to repeal conflicting laws; and for other purposes.

5 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

6 **SECTION 1.**

7 Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
8 gambling and related offenses, is amended by striking in its entirety Code Section 16-12-38,
9 relating to chain letter clubs, pyramid clubs, and like groups as lotteries, and inserting in lieu
10 thereof the following:

11 "16-12-38.

12 ~~The organization of any chain letter club, pyramid club, or other group organized or~~
13 ~~brought together under any plan or device whereby fees or dues or anything of material~~
14 ~~value to be paid or given by members thereof are to be paid or given to any other member~~
15 ~~thereof, which plan or device includes any provision for the increase in such membership~~
16 ~~through a chain process of new members securing other new members and thereby~~
17 ~~advancing themselves in the group to a position where such members in turn receive fees,~~
18 ~~dues, or things of material value from other members, is declared to be a lottery; and~~
19 ~~whoever shall participate in any such lottery by becoming a member of, or affiliating with,~~
20 ~~any such group or organization or whoever shall solicit any person for membership or~~
21 ~~affiliation in any such group or organization shall be guilty of a misdemeanor of a high and~~
22 ~~aggravated nature; provided, however, that this Code section shall not include a 'multilevel~~
23 ~~distribution company,' as defined in paragraph (6) of Code Section 10-1-410, which is~~
24 ~~operating in compliance with Part 3 of Article 15 of Chapter 1 of Title 10.~~

25 (a) As used in this Code section, the term:

26 (1) 'Compensation' means a payment of any money, thing of value, or financial benefit.

1 (2) 'Consideration' means the payment of cash or the purchase of goods, services, or
2 intangible property, and does not include the purchase of goods or services furnished at
3 cost to be used in making sales and not for resale, or time and effort spent in pursuit of
4 sales or recruiting activities.

5 (3) 'Inventory' includes both goods and services, including company produced
6 promotional materials, sales aids, and sales kits that the plan or operation requires
7 independent salespersons to purchase.

8 (4) 'Inventory loading' means that the plan or operation requires or encourages its
9 independent salespersons to purchase inventory in an amount which unreasonably
10 exceeds that which the salesperson can expect to resell for ultimate consumption or to use
11 or consume in a reasonable time period.

12 (5) 'Participant' means a person who joins a plan or operation.

13 (6) 'Person' means an individual, a corporation, a partnership, or any association or
14 unincorporated organization.

15 (7) 'Promote' means to contrive, prepare, establish, plan, operate, advertise, or to
16 otherwise induce or attempt to induce another person to be a participant.

17 (8) 'Pyramid promotional scheme' means any plan or operation in which a participant
18 gives consideration for the right to receive compensation that is derived primarily from
19 the recruitment of other persons as participants into the plan or operation rather than from
20 the sale of goods, services, or intangible property to participants or by participants to
21 others.

22 (b)(1) No person may establish, promote, operate, or participate in any pyramid
23 promotional scheme. A limitation as to the number of persons who may participate or the
24 presence of additional conditions affecting eligibility for the opportunity to receive
25 compensation under the plan does not change the identity of the plan as a pyramid
26 promotional scheme. It is not a defense under this subsection that a person, on giving
27 consideration, obtains goods, services, or intangible property in addition to the right to
28 receive compensation.

29 (2) Nothing in this Code section may be construed to prohibit a plan or operation, or to
30 define a plan or operation as a pyramid promotional scheme, based on the fact that
31 participants in the plan or operation give consideration in return for the right to receive
32 compensation based upon purchases of goods, services, or intangible property by
33 participants for personal use, consumption, or resale so long as the plan or operation does
34 not promote or induce inventory loading and complies with the cancellation requirements
35 of subsection (d) of Code Section 10-1-415.

36 (3) Any person who participates in a pyramid promotional scheme shall be guilty of a
37 misdemeanor of a high and aggravated nature. Any person who establishes, promotes, or

1 operates a pyramid promotional scheme shall be guilty of a felony and, upon conviction
2 thereof, shall be punished by imprisonment for not less than one nor more than five years.
3 (4) Nothing in this Code section shall be construed so as to include a 'multilevel
4 distribution company,' as defined in paragraph (6) of Code Section 10-1-410, which is
5 operating in compliance with Part 3 of Article 15 of Chapter 1 of Title10."

6 **SECTION 2.**

7 All laws and parts of laws in conflict with this Act are repealed.