# SENATE BILL REPORT
# SB 6416

As Passed Senate, February 10, 2006

**Title:** An act relating to prohibiting pyramid promotional schemes.

**Brief Description:** Prohibiting pyramid promotional schemes.

**Sponsors:** Senators Keiser, Hewitt, Rockefeller, Kohl-Welles, Prentice, Finkbeiner, Parlette, Sheldon, Deccio, Shin, Esser and Rasmussen.

**Brief History:**
**Committee Activity:** Labor, Commerce, Research & Development: 1/31/06 [DP].
Passed Senate: 2/10/06, 43-0.

## SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

**Majority Report:** Do pass.
Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Parlette, Ranking Minority Member; Honeyford and Keiser.

**Staff:** John Dziedzic (786-7784)

**Background:** A chain distribution scheme involves: (1) a person making an investment to obtain the right to recruit others; (2) new recruits who are also required to make an investment to obtain the right to recruit others into the program; and (3) a person previously investing in the program receiving money or something of value when new recruits enter the program.

A chain distribution scheme is an unfair and deceptive practice under the Consumer Protection Act (CPA). Generally, under the CPA, a court may issue an injunction to stop the scheme, impose penalties, and order restitution to injured parties, court costs, and attorney fees.

**Summary of Bill:** A pyramid scheme is defined as an enterprise in which a person pays something for the right to receive compensation that is derived primarily from the recruitment of other persons as participants in the enterprise. Enterprises where participants' compensation is based on the bona fide sale of goods, services, or intangible property to others is not a pyramid scheme. Payments by participants for goods, etc. to be sold by the participants do not constitute "consideration," if the goods, etc. are subject to a repurchase agreement.

Establishing, promoting, operating, or participating in a pyramid scheme violates the CPA.

The statutes defining and prohibiting chain distribution schemes are repealed.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Thousands of Washington citizens successfully run their own legitimate direct selling businesses. This bill makes a clear distinction between those legitimate direct selling companies and illegitimate pyramid schemes. Illegitimate schemers operate totally differently now as compared to when the current law was written to address "chain letters." Not only are their operations more sophisticated, but also they know the applicable laws in each state, and are more likely to target consumers in those states that do not have the most current and effective anti-pyramid statutes. The proponents have worked with the Office of the Attorney General to craft language that helps avoid the fiscal impact that had been estimated in prior years.

**Testimony Against:** None.

**Who Testified:** PRO: Misty Fallik, Direct Selling Association; Crayton Webb, Mary Kay, Inc.; Rob Barnes, Sensaria; Kevin McMurray, USANA Health Sciences, Inc.