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February 1, 2022

Members of the **Kansas Senate Judiciary Committee**

Re: Support for HB 2231: Pro-Consumer Protection Anti-Pyramid Scheme Legislation

Dear Members of the **Kansas Senate Judiciary Committee**:

The Direct Selling Association (“DSA”) would like to voice its strong **support for HB 2231**. The bill would clearly define and establish penalties for operating or participating in a pyramid promotional scheme. Last year the bill easily passed the **House Commerce, Labor, and Economic Development Committee** and the **Kansas House**. **We anticipate consideration by the Kansas Senate Judiciary Committee soon.**

DSA is the national trade association for companies that sell their products and services directly to consumers through an independent, entrepreneurial salesforce. Over 183,000 Kansas residents are involved in direct selling. In 2020, sales in Kansas were over \$446 million.

The current law is deficient and does not draw a clear line of delineation between legitimate direct selling companies and pyramid schemes. The lack of a clear pyramid scheme definition in the current statute may create confusion among the public, particularly when considering that some pyramid schemes masquerade as legitimate direct selling companies to defraud consumers.

This bill clearly defines a pyramid scheme as any plan or operation in which compensation is provided primarily for the recruitment of others and makes clear that personal use of products is a legitimate business practice. This legislation is needed to protect consumers because pyramid schemes are illegal businesses that defraud consumers. It would give law enforcement in Kansas more guidance on identifying and prosecuting pyramid schemes and guide legitimate direct selling companies on what constitutes acceptable business practices.

The bill would differentiate the legal income-earning opportunities offered by legitimate direct selling companies from the scams perpetrated by fly-by-night promoters of pyramid schemes and encouraging the adoption of anti-inventory loading policies by direct selling companies.

This language is derived from model legislation endorsed by the Council of State Governments (CSG) in 2004 and is based on the 2003 **South Dakota** law. **Twenty-seven** states with strong bipartisan support have adopted this or similar language. The CSG is one of the country’s preeminent bi-partisan state public policy organizations. Specific legislation was subsequently enacted into law in **Idaho, Washington, Georgia, Utah, Nebraska, Virginia, Tennessee, Indiana, New Jersey, South Carolina, Mississippi, Michigan, Arkansas, Ohio and Pennsylvania** as those states moved to update their laws. In 2021 **Alabama** adopted the model. Ten other states have similar laws consistent with the CSG language, including **Texas, Louisiana, and Oklahoma**.

Providing Clarity and Eliminating Confusion in the Marketplace

The legislation will provide clarity and eliminate confusion in the marketplace by:

- Clarify enforcement while enacting a law that will protect legitimate Kansas direct sellers.
- Clearly differentiating the legal income-earning opportunities offered by legitimate direct selling companies from the scams perpetrated by fly-by-night promoters of pyramid schemes.
- Encouraging the adoption of anti-inventory loading policies by direct selling companies.

This language has been successfully used as a theory of prosecution in multiple jurisdictions. The bills protect consumers by providing guidance on identifying illegal businesses and provides clarity for legitimate direct selling companies on ethical business practices.

Nobody wins when pyramids schemes prevail. Not consumers or legitimate direct selling companies. **DSA urges you to vote for HB 2231.**

Respectfully Submitted,

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