

**HOUSE BILL NO. 393**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

**BY REPRESENTATIVE STEVENS**

**Introduced: 2/8/02**

**Referred: Labor and Commerce, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to unfair and deceptive trade practices and to the sale of business**  
2 **opportunities; amending Rules 4 and 73, Alaska Rules of Civil Procedure; and**  
3 **providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **\* Section 1.** AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

6 (AAA) receipts of fees for registration and renewal of  
7 registration for the sale of business opportunities under AS 45.66.040.

8 **\* Sec. 2.** AS 45.50.471(b) is amended by adding a new paragraph to read:

9 (43) violating AS 45.66 (sale of business opportunities).

10 **\* Sec. 3.** AS 45 is amended by adding a new chapter to read:

11 **Chapter 66. Sale of Business Opportunities.**

12 **Sec. 45.66.010. Registration required.** A person may not sell or offer to sell  
13 a business opportunity unless the person is registered as a seller with the department at  
14 least 30 days before the sale or offer to sell begins and has paid the fee required by

1 AS 45.66.040.

2 **Sec. 45.66.020. Registration procedure.** (a) To register under  
3 AS 45.66.010, a person shall file with the department

4 (1) the disclosure statement required by AS 45.66.080 and any  
5 advertising, pamphlets, brochures, or other materials to be used in the offering or  
6 promoting of the business opportunity;

7 (2) the bond required by AS 45.66.060;

8 (3) an irrevocable consent appointing the department as the person's  
9 agent for the receipt of service of process in a court action or other proceeding against  
10 the person, or the successor in interest of the person, for a violation of this chapter;

11 (4) a completed application form that satisfies (b) of this section;

12 (5) a signed statement that the person has read and will comply with  
13 this chapter and the regulations adopted under it;

14 (6) the fee required by AS 45.66.040; and

15 (7) other information requested by the department to evaluate whether  
16 the person meets the requirements of this chapter.

17 (b) The department shall establish by regulation, the application forms for  
18 registrations under this chapter. The application forms must require the submission of  
19 the following information:

20 (1) the nature of the business opportunity and the method by which it  
21 will be offered, advertised, or promoted;

22 (2) the identity and business practices of the person who will be the  
23 seller, including information on the owners, employees, agents, officers, and others  
24 affiliated with that person; and

25 (3) disclosures of criminal convictions, civil judgments, orders,  
26 consent decrees, and administrative determinations involving allegations of fraud,  
27 theft, embezzlement, fraudulent conversion, misappropriation of property, the use of  
28 untrue or misleading representations in an attempt to sell or dispose of real or personal  
29 property, violations of this chapter, violations of AS 45.63 (telephonic solicitations),  
30 violations of AS 45.68 (charitable solicitations), or unfair or deceptive business  
31 practices under AS 45.50.471 - 45.50.561, or a substantially similar statute in another

1 jurisdiction, by the person who will be the seller, and the owners, employees, agents,  
2 officers, and others affiliated with that person.

3 (c) Registration under AS 45.66.010 or renewal under AS 45.66.030 is not  
4 complete until the person or seller receives an acknowledgment from the department  
5 that the person or seller has complied with (a) of this section or AS 45.66.030, as  
6 applicable.

7 **Sec. 45.66.030. Renewal of registration.** If a seller continues to sell or offer  
8 to sell a business opportunity for more than one year from the date of the department's  
9 acknowledgment of the initial registration under this chapter, the seller shall renew the  
10 registration each year that the sale or offer to sell continues by filing, before or on the  
11 anniversary date of the department's acknowledgment under AS 45.66.020(c), a  
12 renewal application, on a form established by the department by regulation, requiring  
13 information that is similar to the information required under AS 45.66.020.

14 **Sec. 45.66.040. Registration and renewal fees.** (a) As part of the  
15 registration procedure set out in AS 45.66.020(a), a person shall pay a nonrefundable  
16 registration fee to the department. With a renewal application, the seller shall pay a  
17 nonrefundable renewal fee. The department shall establish the amount of the  
18 registration fee and the renewal fee by regulation.

19 (b) Under AS 37.05.146(b), registration and renewal fees collected under this  
20 chapter shall be accounted for separately, and appropriations from the account are not  
21 made from the unrestricted general fund.

22 **Sec. 45.66.050. Material changes in registration information.** If there is a  
23 material change in the information provided under AS 45.66.020 or 45.66.030, the  
24 seller shall, within 10 days after the change, file with the department a statement  
25 describing the change on a form established by the department by regulation.

26 **Sec. 45.66.060. Surety bond required.** (a) A person registering as a seller  
27 shall obtain a surety bond in the amount of \$75,000 issued by a surety company  
28 authorized to do business in the state. The bond must be in favor of the state for the  
29 benefit of a buyer and must satisfy the conditions established by the department by  
30 regulation.

31 (b) If the department finds that the amount of the bond set by (a) of this

1 section is insufficient to protect the public interest, the department may by regulation  
2 increase the amount of the bond.

3 **Sec. 45.66.070. Location of offer and sale.** This chapter applies to a sale of,  
4 or an offer to sell, a business opportunity if

5 (1) the offer, regardless of whether either party is then present in this  
6 state, originates in this state, or is directed by the offeror to this state and received at  
7 the place to which the offer is directed, including a post office box; this paragraph  
8 does not include an offer that

9 (A) appears in a bona fide newspaper or other publication of  
10 general circulation that is not published in this state or that is published in this  
11 state but more than two-thirds of its circulation was outside this state during  
12 the 12 months preceding the offer; or

13 (B) is made on a radio or television program that originates  
14 outside this state and is received in this state;

15 (2) the acceptance

16 (A) has not been previously communicated, orally or in  
17 writing, to the offeror outside this state;

18 (B) is communicated to the offeror in this state, regardless of  
19 whether the seller or buyer is then present in this state, and the offeree  
20 reasonably believes that the offeror is located in this state; and

21 (C) is received at the place to which it was directed, including a  
22 post office box; or

23 (3) the buyer is domiciled in this state and the business opportunity is  
24 or will be operated in this state.

25 **Sec. 45.66.080. Disclosure requirements.** (a) At least 10 days before a  
26 buyer signs the contract required by AS 45.66.090, or at least 10 days before receipt of  
27 any consideration by the seller, whichever event occurs first, the seller shall give the  
28 buyer the written disclosure statement described in (b) of this section, require the  
29 buyer to sign a receipt containing the buyer's name and the date on which the buyer  
30 received the disclosure statement, and give the buyer the original receipt with the  
31 buyer's original signature. The seller shall retain a copy of the receipt.

1 (b) The department shall specify by regulation the form and content of the  
2 disclosure statement required by (a) of this section, including

3 (1) the seller's name, type of business organization, address, and name  
4 of any parent or affiliated company related to the transaction;

5 (2) the names, addresses, and other relevant information regarding the  
6 owners, officers, directors, and other persons responsible for the seller's business  
7 activities related to the contract;

8 (3) the business history of the seller and the seller's representatives and  
9 the background of the seller and the seller's representatives that relates to business  
10 opportunities;

11 (4) the total contract amount to be paid by the buyer and the schedule  
12 of payments;

13 (5) the financial condition of the seller, including audits and recent  
14 income statements;

15 (6) a complete description of the services that the seller will perform  
16 for the buyer, including training;

17 (7) the history of the seller's registration or attempted registration in  
18 this or another state as a seller of business opportunities;

19 (8) a history of civil actions, criminal actions, and consumer protection  
20 complaints as described in AS 45.66.020(b)(3) brought against the seller or the seller's  
21 representatives related to the sale of business opportunities and the resolution of the  
22 actions and complaints in this state or another jurisdiction;

23 (9) identification of any bankruptcy actions filed in court by the seller  
24 and the resolution of the actions;

25 (10) if the seller makes a statement about potential earnings that can be  
26 made through a business opportunity, the basis for the statement and the economic  
27 risks associated with the business opportunity;

28 (11) the rights and obligations of the seller and buyer regarding  
29 termination of the contract, including the rights arising out of the bond required by  
30 AS 45.66.060; and

31 (12) any additional information that the department determines by

1 regulation is reasonable and in the public interest for the seller to provide in order to  
2 make a complete disclosure concerning the contract.

3 **Sec. 45.66.090. Written contract required.** (a) In addition to the other  
4 requirements of this chapter, a person may not contract to sell a business opportunity  
5 unless the contract is in writing and the seller gives a copy of the contract to the buyer  
6 when the buyer signs the contract.

7 (b) The department shall establish by regulation the content and format of the  
8 information that must be contained in the contract. At a minimum, the contract must  
9 contain

10 (1) the payment terms, including any escrow account required under  
11 AS 45.66.100;

12 (2) the name, address, and telephone number of the seller, the seller's  
13 agent, and each supplier of products, equipment, or supplies that the seller is to deliver  
14 to the buyer;

15 (3) a statement of the form of the seller's business organization;

16 (4) a description of services, including any training services, that the  
17 seller is to provide to the buyer;

18 (5) the delivery date of the product, equipment, or supplies being sold  
19 or leased;

20 (6) if the seller has represented that there is a buy-back agreement for  
21 the business opportunity or that payments are protected or secured, a complete  
22 description of those provisions;

23 (7) a statement of the buyer's right to cancel, the circumstances under  
24 which cancellation is authorized, and the procedure for cancellation and refunds; and

25 (8) any other terms that the department determines are necessary to  
26 protect the public interest.

27 **Sec. 45.66.100. Restrictions on down payments.** (a) A seller may not  
28 require a buyer to pay as a down payment more than 20 percent of the initial payment  
29 unless the excess above the 20 percent is placed in an escrow account that meets the  
30 requirements of AS 45.66.110.

31 (b) In this section,

1 (1) "down payment" means that portion of the initial payment that the  
 2 buyer is obligated to pay to the seller before or at the time the products, equipment,  
 3 supplies, or services are delivered, but does not include any amount that is financed by  
 4 or for which financing is to be obtained by the seller or that results from financing that  
 5 the seller assists the buyer to obtain;

6 (2) "initial payment" means

7 (A) the total amount that a buyer is obligated to pay under the  
 8 terms of the contract before or at the time the equipment, supplies, products, or  
 9 services are delivered or within six months after the buyer commences  
 10 operation of the business opportunity; or

11 (B) the entire sale price if the contract sets out a specific total  
 12 sale price for the purchase of the business opportunity and the total price is to  
 13 be paid partially as a down payment and then in specific monthly payments or  
 14 a subsequent lump sum payment.

15 **Sec. 45.66.110. Escrow account requirements.** (a) The holder of an escrow  
 16 account required by AS 45.66.100 must be a person who is independent from the  
 17 seller, and the seller may not make direct disbursements from the escrow account  
 18 except as provided in (c) of this section.

19 (b) A seller who establishes an escrow account required by AS 45.66.100 shall  
 20 promptly report to the department the following information:

21 (1) the name and address of the escrow account holder;

22 (2) the name and address of the financial institution, including the  
 23 branch, where the escrow account is located; and

24 (3) the escrow account number.

25 (c) Except as provided under AS 45.66.120, money placed in an escrow  
 26 account required by AS 45.66.100 may not be released until the buyer notifies the  
 27 escrow holder in writing that the products, equipment, supplies, or services required  
 28 by the contract have been delivered within the time set in the contract between the  
 29 buyer and seller. The buyer shall notify the escrow holder of a timely delivery within  
 30 10 business days after delivery.

31 **Sec. 45.66.120. Actions for claims against escrow account.** (a) A buyer

1 who has a claim against an escrow account required by AS 45.66.100 may bring a  
2 civil action against the seller or escrow account holder to recover money from the  
3 escrow account.

4 (b) Upon the filing of an action brought under this section, the clerk of the  
5 court shall mail a copy of the complaint to the attorney general and, upon entry of an  
6 order or judgment in the action, shall mail a copy of the order or judgment to the  
7 attorney general.

8 (c) A person may not begin an action under this section more than two years  
9 after the person discovers or reasonably should have discovered the basis for the  
10 claim.

11 (d) The escrow holder is not liable for the amount by which claims or damages  
12 caused by the seller exceed the amount of the escrow account.

13 **Sec. 45.66.130. Cancellation of contract.** (a) A buyer may cancel a contract  
14 for any reason if the buyer gives notice of the cancellation to the seller within 30 days  
15 after signing the contract.

16 (b) In addition to the right to cancel under (a) of this section, a buyer may  
17 cancel the contract at any time if the seller

18 (1) failed to comply with AS 45.66.080 or 45.66.090;

19 (2) used untrue, misleading, incomplete, or deceptive statements in any  
20 aspect of advertising, promoting, selling, or offering to sell a business opportunity;

21 (3) fails, within 30 days after the delivery date specified in the  
22 contract, to deliver the products, equipment, supplies, or services required under the  
23 contract to begin substantial operation of the business to be started under the contract;  
24 or

25 (4) fails to provide a location for the business to be started under the  
26 contract if the contract requires the seller to provide a location.

27 (c) If provided by mail, the buyer's notice of cancellation is effective when it  
28 is deposited in the mail properly addressed to the seller with postage prepaid.

29 (d) The notice of cancellation is not required to have a particular form. The  
30 notice is sufficient if it indicates in writing the intention of the buyer not to be bound  
31 by the contract.

1 (e) Within 15 days after the date the buyer gives a notice of cancellation under  
 2 this section, the seller shall refund to the buyer any payments, including payments for  
 3 shipping costs, made by the buyer and terminate all financial obligations of the buyer  
 4 under the contract. Within five days after receiving the refund, the buyer shall make  
 5 available to the seller, at a reasonable time and place, any products, equipment, or  
 6 supplies delivered by the seller.

7 **Sec. 45.66.140. Prohibited representations.** (a) A person may not state that  
 8 the person is registered as a seller under this chapter unless the person has complied  
 9 with the registration or renewal requirements, as applicable, of this chapter.

10 (b) Unless the seller is asked for the information by the buyer, a seller may not  
 11 state or imply that the seller has a license, consent, or other form of permission from  
 12 the state to sell business opportunities in this state.

13 (c) A seller may not make, or cause to be made, a representation that is  
 14 inconsistent with AS 45.66.160.

15 (d) A seller may not state or imply that the seller's compliance with the laws of  
 16 this state or a municipality constitutes approval or endorsement of the seller by the  
 17 state or municipality.

18 **Sec. 45.66.150. Untrue statements or omissions.** A person may not, in  
 19 connection with a sale of or an offer to sell a business opportunity subject to  
 20 registration under this chapter, directly or indirectly make an untrue statement of  
 21 material fact in the registration information required in or under AS 45.66.020 -  
 22 45.66.050 or in other written or oral communications, including the disclosure  
 23 required by AS 45.66.080 and in advertising related to the sale or offer, or omit to  
 24 state a material fact necessary, in light of the circumstances under which it is made, to  
 25 avoid a statement being misleading.

26 **Sec. 45.66.160. Unwarranted conclusions.** (a) Acknowledgment of  
 27 registration by the department under AS 45.66.020(c) does not constitute a finding by  
 28 the department that a document filed with the department under this chapter is true,  
 29 complete, or not misleading.

30 (b) Acknowledgment of registration by the department under AS 45.66.020(c)  
 31 does not mean that the department has evaluated the merits or qualifications of the

1 seller or business opportunity, or that the department recommends or approves a seller  
2 or the business opportunity.

3 (c) Availability of an exemption under AS 45.66.220 for a seller does not  
4 mean that the department recommends or approves the seller or the business  
5 opportunity.

6 **Sec. 45.66.170. Waiver prohibited and void.** A seller may not request or  
7 obtain from a buyer a waiver of the rights or defenses of the buyer under this chapter.  
8 A waiver of the rights or defenses of the buyer under this chapter is void.

9 **Sec. 45.66.180. Seller's records and files.** (a) A seller shall maintain a  
10 complete set of records relating to the advertising and promotion of the seller's  
11 business opportunity for five years and allow the department to inspect and copy them  
12 during reasonable business hours.

13 (b) A seller shall keep all documents relating to a contract entered into by the  
14 seller for five years after the date the contract is entered into.

15 **Sec. 45.66.190. Public records.** Except for testimony and records related to  
16 an investigation by the department under this chapter, the registration application  
17 form, registration renewal form, disclosure statement, bond, contract, and other  
18 documents required to be prepared or filed with the department under this chapter,  
19 including a document created or obtained by the department under AS 45.66.200, are  
20 public records available for public inspection and copying under AS 40.25.110 -  
21 40.25.220.

22 **Sec. 45.66.200. Denial, suspension, or revocation of registration.** (a)  
23 Subject to the other requirements of this section and after reviewing a response  
24 submitted by the person under (b) of this section, the department may issue an order  
25 denying, suspending, or revoking a registration or renewal of a registration made by a  
26 person under AS 45.66.010 - 45.66.030, or prohibiting a person from selling or  
27 offering to sell business opportunities, if the department finds that

28 (1) the person failed to comply with this chapter or the regulations  
29 adopted under this chapter;

30 (2) the sale of or offer to sell would constitute, or has constituted, a  
31 misrepresentation of, deceit of, or fraud on the buyer;

1 (3) the nature of the person's business enterprise or method of  
 2 business, or the nature or method of the business opportunity, includes activities that  
 3 are illegal where performed;

4 (4) the person failed to file a document, information, fee, or bond  
 5 required by AS 45.66.010 - 45.66.060;

6 (5) the literature or advertising of the person, or of another person  
 7 recommended by the person, is misleading, incorrect, materially incomplete, or  
 8 deceptive;

9 (6) a person identified in the registration represents an unreasonable  
 10 risk to the public interest and

11 (A) has been convicted of

12 (i) a felony or misdemeanor involving fraud, theft,  
 13 embezzlement, fraudulent conversion, misappropriation of property, or  
 14 the use of untrue or misleading representations in the sale of or offer to  
 15 sell or otherwise dispose of real or personal property; or

16 (ii) violations under this chapter, violations of AS 45.63  
 17 (telephonic solicitations), violations of AS 45.68 (charitable  
 18 solicitations), or an unfair trade practice prohibited by AS 45.50.471 -  
 19 45.50.561, or a substantially similar statute in another jurisdiction;

20 (B) is subject to a final order or judgment against the person in  
 21 a civil or administrative action, including a stipulated order or judgment, if the  
 22 complaint or petition in the action alleged acts constituting

23 (i) a violation of this chapter;

24 (ii) fraud, theft, embezzlement, fraudulent conversion,  
 25 or misappropriation of real or personal property;

26 (iii) the use of untrue or misleading representations in  
 27 an offer to sell or dispose of real or personal property;

28 (iv) the use of unfair trade practices under  
 29 AS 45.50.471 - 45.50.561; or

30 (v) a violation of AS 45.63 or AS 45.68; or

31 (C) is subject to an injunction relating to business activity if the

1 injunction resulted from an action brought by a federal, state, or local public  
2 agency, including an action related to an occupational license under AS 08.

3 (b) Before issuing an order to a person under (a) of this section, the  
4 department shall send by certified mail to the address set out in the person's  
5 registration or renewal of registration a notice of intent to issue the order. In the  
6 notice, the department shall provide the facts supporting the denial, suspension, or  
7 revocation of the registration or renewal of the registration. The person may respond  
8 to the notice by submitting a statement signed under penalty of perjury by the person  
9 or by an owner or officer of the person.

10 **Sec. 45.66.210. Criminal penalties.** (a) A seller who recklessly violates  
11 AS 45.66.010 - 45.66.060, 45.66.080 - 45.66.110, or 45.66.150 is guilty of a class C  
12 felony.

13 (b) A seller who recklessly violates AS 45.66.130(e), 45.66.140, or 45.66.170  
14 is guilty of a class A misdemeanor.

15 (c) Each violation is a separate offense and a prosecution or conviction for one  
16 of the offenses does not bar prosecution or conviction of another offense.

17 (d) In this section, "recklessly" has the meaning given in AS 11.81.900.

18 **Sec. 45.66.220. Exemptions.** This chapter does not apply to a sale of or an  
19 offer to sell

20 (1) a business opportunity if the total amount of the payments to be  
21 made by the buyer under the contract is less than \$200;

22 (2) a franchise under 16 C.F.R. 436;

23 (3) an ongoing business operated by the seller that is to be sold in its  
24 entirety;

25 (4) a business opportunity to an ongoing business if the seller will  
26 provide products, equipment, supplies, or services that are to be sold by the buyer in  
27 connection with the buyer's ongoing business;

28 (5) sales demonstration equipment, materials, or samples for use in  
29 sales demonstrations and not for resale, or product inventory sold to the buyer at a  
30 bona fide wholesale price;

31 (6) a business opportunity by an executor, an administrator, a marshal,

1 a receiver, a trustee in bankruptcy, or a guardian or conservator, or under a judicial  
2 sale;

3 (7) a security regulated under AS 45.55 or a security that is exempted  
4 by AS 45.55.900 from regulation under AS 45.55;

5 (8) a business opportunity if the sale or offer is made by a person  
6 registered with the United States Securities and Exchange Commission when acting  
7 within the scope of the person's Securities and Exchange Commission license or by a  
8 person registered by the state under AS 45.55 when acting within the scope of  
9 registration;

10 (9) a business opportunity by an issuer, or a subsidiary of an issuer, of  
11 a class of securities that is

12 (A) subject to 15 U.S.C. 78a - 78lll (Securities Exchange Act of  
13 1934); and

14 (B) registered under 15 U.S.C. 78a - 78lll (Securities Exchange  
15 Act of 1934) unless exempt from registration under 15 U.S.C. 78l(g)(2)(A) -  
16 (C) or (E) - (H);

17 (10) a business opportunity in which the buyer is

18 (A) a bank, savings and loan association, trust company,  
19 insurance company, credit union, or investment company under 15 U.S.C. 80a-  
20 1 - 80a-64 (Investment Company Act of 1940), pension or profit sharing trust,  
21 or other financial institution or institutional buyer; or

22 (B) a broker-dealer registered under AS 45.55 ;

23 (11) a business opportunity that involves a marketing plan made in  
24 conjunction with the registration of a trademark or service mark under 15 U.S.C. 1051  
25 - 1127 (Trademark Act of 1946) if the seller has a minimum net worth of \$1,000,000  
26 as determined on the basis of the seller's most recent audited financial statement  
27 prepared within 13 months of the first offer to sell in this state; net worth may be  
28 determined on a consolidated basis if one person owns at least 80 percent of the seller  
29 and that one person expressly guarantees the obligations of the seller that arise under  
30 the sale or offer claimed to be exempt under this paragraph; or

31 (12) a business opportunity in which either the seller or the buyer is

1 licensed as a real estate broker, associate real estate broker, or real estate salesperson  
2 under AS 08.88 and the sale or offer is regulated by AS 08.88.

3 **Sec. 45.66.230. Coordination with other laws.** (a) The rights and remedies  
4 in this chapter are in addition to other legal rights and remedies available to a buyer or  
5 the department.

6 (b) To the extent of the conflict, the provisions of this chapter govern if a sale  
7 or an offer to sell a business opportunity is regulated by this chapter and by AS 45.63  
8 (telephonic solicitations), by AS 45.01 - AS 45.08, AS 45.12, AS 45.14, and AS 45.29  
9 (Uniform Commercial Code), or by another law, and it is not possible to comply with  
10 or to apply both this chapter and the other law.

11 **Sec. 45.66.240. Regulations.** The department may adopt regulations under  
12 AS 44.62 (Administrative Procedure Act) to carry out the purposes of this chapter.

13 **Sec. 45.66.900. Definitions.** In this chapter, unless the context indicates  
14 otherwise,

15 (1) "advertising" means a circular, a prospectus, an advertisement, or  
16 other material or a communication by radio, television, pictures, or similar means used  
17 in connection with a sale of or an offer to sell a business opportunity;

18 (2) "business opportunity" means an arrangement under which the  
19 seller or a person recommended by the seller will provide to the buyer products,  
20 equipment, supplies, or services enabling the buyer to start a business and under which  
21 one or more of the following occurs or is to occur:

22 (A) the seller or a person recommended by the seller will  
23 provide or assist the buyer in finding locations for the use or operation of  
24 vending machines, racks, display cases, or other similar devices on premises  
25 that are not owned or leased by the buyer or seller;

26 (B) the seller or a person recommended by the seller will  
27 provide or assist the buyer in finding outlets or accounts for the buyer's  
28 products or services;

29 (C) the seller or a person specified by the seller will purchase  
30 any or all products made, produced, fabricated, grown, bred, or modified by  
31 the buyer;

1 (D) the seller or a person specified by the seller will buy back  
 2 or is likely to buy back any products made, produced, fabricated, grown, bred,  
 3 or modified by the buyer using, in whole or in part, the product, supplies,  
 4 equipment, or services that were initially sold or offered for sale to the buyer  
 5 by the seller;

6 (E) the seller makes an oral or written representation that the  
 7 buyer will derive income from the business that will exceed the price paid to  
 8 the seller, and the representation would cause a reasonable person in the  
 9 buyer's position to believe the income is assured;

10 (F) the seller will refund all or part of the price paid to the  
 11 seller, or repurchase some or all of the products, equipment, or supplies  
 12 provided by the seller or a person recommended by the seller if the buyer is  
 13 dissatisfied with the business; or

14 (G) the seller will provide the buyer with a marketing plan;

15 (3) "buyer" means a person who is solicited to become obligated or  
 16 does become obligated on a contract;

17 (4) "contract" means an agreement relating to a business opportunity;

18 (5) "department" means the Department of Law;

19 (6) "equipment" includes machines, electrical devices, video or audio  
 20 devices, computer devices, molds, display racks, vending machines, coin-operated  
 21 game machines, machines that dispense products, and display units of all kinds;

22 (7) "marketing plan" means advice or training provided to the buyer by  
 23 the seller or a person recommended by the seller pertaining to the sale of products,  
 24 equipment, supplies, or services;

25 (8) "offer" or "offer to sell" means an attempt to sell a business  
 26 opportunity;

27 (9) "product" includes a tangible chattel, including food or living  
 28 animals, that the buyer intends to

29 (A) sell or lease;

30 (B) use to perform a service;

31 (C) resell or offer to resell to the seller; or

1 (D) provide or offer to provide to the seller, or to another  
 2 person whom the seller suggests the buyer contact, so that the seller or the  
 3 other person may assist the buyer, either directly or indirectly, to distribute,  
 4 sell, lease, or otherwise dispose of a product;

5 (10) "sale," regarding the sale of a business opportunity, means a  
 6 contract to sell, lease, or otherwise dispose of the business opportunity or an interest in  
 7 the business opportunity for value;

8 (11) "sell," regarding the selling of a business opportunity, means to  
 9 sell, lease, or otherwise dispose of the business opportunity or an interest in the  
 10 business opportunity for value;

11 (12) "seller" means a person, or the person's agent, who sells or offers  
 12 to sell a business opportunity;

13 (13) "services" includes assistance, guidance, direction, work, labor, or  
 14 other act that may be provided by the seller in the initiation or maintenance of a  
 15 business;

16 (14) "supplies" includes materials used to produce, grow, breed,  
 17 fabricate, modify, develop, or make a product or other item.

18 \* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to  
 19 read:

20 **INDIRECT COURT RULE AMENDMENTS.** The provisions of AS 45.66.120(b),  
 21 enacted by sec. 3 of this Act, have the effect of changing

22 (1) Rule 4, Alaska Rules of Civil Procedure, by requiring the clerk of the court  
 23 to mail a copy of the complaint to the attorney general when an action is filed under  
 24 AS 45.66.120, enacted by sec. 3 of this Act; and

25 (2) Rule 73, Alaska Rules of Civil Procedure, by requiring the clerk of the  
 26 court to mail a copy of an order or judgment in an action under AS 45.66.120, enacted by sec.  
 27 3 of this Act, to the attorney general.

28 \* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to  
 29 read:

30 **TRANSITION: REGISTRATION REGARDING EXISTING ACTIVITIES.** (a)  
 31 Notwithstanding the registration requirements of AS 45.66.010 - 45.66.900, enacted by sec. 3

1 of this Act, a person who, on the day before the effective date of sec. 3 of this Act, is selling  
 2 or offering to sell a business opportunity may continue to sell or offer to sell a business  
 3 opportunity until the 45th day after the effective date of sec. 3 of this Act without being  
 4 registered as a seller under AS 45.66.010, enacted by sec. 3 of this Act. Beginning on the  
 5 46th day after the effective date of sec. 3 of this Act, a person described in this subsection  
 6 shall be registered as a seller under AS 45.66.010 in order to continue selling or offering to  
 7 sell a business opportunity.

8 (b) In this section,

9 (1) "business opportunity" has the meaning given in AS 45.66.900, enacted by  
 10 sec. 3 of this Act;

11 (2) "offer to sell" has the meaning given in AS 45.66.900, enacted by sec. 3 of  
 12 this Act;

13 (3) "sell" has the meaning given in AS 45.66.900, enacted by sec. 3 of this  
 14 Act;

15 (4) "seller" has the meaning given in AS 45.66.900, enacted by sec. 3 of this  
 16 Act.

17 \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
 18 read:

19 TRANSITION: REGULATIONS. The Department of Law may proceed to adopt  
 20 regulations to implement AS 45.66.010 - 45.66.900, enacted by sec. 3 of this Act. The  
 21 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the  
 22 effective date of sec. 3 of this Act.

23 \* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to  
 24 read:

25 CONDITIONAL EFFECT. AS 45.66.120(b), enacted by sec. 3 of this Act, takes  
 26 effect only if sec. 4 of this Act receives the two-thirds majority vote of each house required by  
 27 art. IV, sec. 15, Constitution of the State of Alaska.

28 \* **Sec. 8.** Section 6 of this Act takes effect immediately under AS 01.10.070(c).

29 \* **Sec. 9.** Except as provided in sec. 8 of this Act, this Act takes effect July 1, 2002.