

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8668 HOUSE LABOR & COMMERCE



Alaska State Legislature

Please enter into the record my testimony to the House Labor/Commerce Subcomm
 committee name
 committee on HB 236, dated 4-8-95
 bill/subject

HR 236 will have a far reaching negative economic impact. A 5% paycut for State employees will mean less disposable income for less purchasing power. Less purchasing power will mean they will not be able to afford the "luxury" of upkeep painting maintenance on their homes. This will not only be detrimental to the structure of the home, it will be detrimental to my income. My purchasing power will be decreased. Infact every merchant that state employees normally patronize will have their income decreased, thereby, decreasing their purchasing power. An on and on.....until you will have caused a statewide recession.

It is unfair to penalize any group of hardworking resident workers while you allow nonresident workers to take their money and run home. It would be far more equitable to impose an income tax for all state workers. This would generate millions in revenue. AND it would be some return on income generated from the depletion of our natural resources. i.e. fishing, timber, oil, and mining. A good number of these workers only work in Alaska, they maintain their households out of state. They do not patronize our local merchants, they do not add anything to local economies. An income tax might make Alaska less attractive to outside interests who are only looking for a fast buck, it could open more employment to those resident workers who do maintain their homes here and do support the local economies. For example, on the Kenai River in 1994 there were approximately 260 "registered" sportfishing guides, only 56 of those are Alaskan residents. The rest live in the lower 48, they take their money and run. This is true of all natural resource industries.

I urge you to kill this bill today and introduce one to impose an income tax.

Signed: Bill Stagganborg
 Testifier
 Bill's Quality Painting
 Representing (Optional)
 35670 Poppy Ridge
 Address
 Soldotna, AK 99669 262-2165
 Phone No.

March 27, 1995

Representative Pete Kott, Chair
House Labor and Commerce Committee
State Capitol Building, Room 432
Juneau, AK 99801-1182

Representative Kott:

I am an employee of the University of Alaska Southeast - Ketchikan campus. I understand that the House Finance Committee is proposing to reduce state employee wages by approximately 5%. I ask you to make the employees of the University of Alaska exempt from House Bill 236.

Let me tell you a bit about myself. I am a 28 year-old single parent with one child. My son, Mike, is seven years old. My ex-husband lives in Montana and I have not received a child support check since July 29, 1994. During the last nine months, he has been extremely crafty at dodging child support orders by switching jobs. Short of booking a flight to Montana - at my expense - to appear in court, I have done just about everything I can to try and get regular payments to assist me in raising my child.

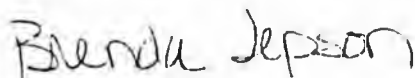
I am the Admissions & Records person (I am a one-person department) and do you know what I get paid? \$11.55 per hour. Yes, \$11.55 per hour. That is just \$24,000 per year. If you cut the lowest paid employees in the system how much do you think you're going to save?

My child is enrolled in a daycare program after school. I receive assistance to keep him in that program. I am trying my very best to make his childhood happy, healthy and filled with love. How can I give him those things if I have to find an evening job just to pay my bills?

I have worked for the University for almost two years - I have yet to receive a pay increase. When the new pay scale was implemented I fell between the cracks. I made 1 cent more than the lowest step on the scale, therefore, I did not receive an increase. University salaries have increased by half of what state salaries have over the past 10 years.

Please make University employees exempt from House Bill 236. To be honest, I don't know how I would survive making any less than I do right now. Thank you for your time.

Sincerely,



Brenda Jepson
PO Box 23443
Ketchikan, AK 99901

LEAH ARONOW-BROWN
PO BOX 10342
FAIRBANKS AK 99710

March 27, 1995

Dear Pete Kott:

This is in regard to HB236, which threatens to cut my salary 5%. Please understand that my situation is similar to that of a large number of staff on the UAF campus, the majority of whom have modest salaries and do the work of more than one person due to previous cutbacks over the past several years.

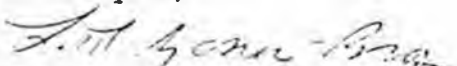
This is my sixth year as the secretary of the Dept. of Communication. I am the sole staff support for the classroom and research work of six faculty, dozens of majors and minors, and hundred of students. This year I had cut two weeks off my already short 10 month contract due to budget cuts in College of Liberal Arts, while seeing my duties and workload increase due to increased enrollment and the arduous program assessment process this university just went through. Next year my workload will increase even further, since I will be supporting 13 faculty and assisting in the impelmentaion of a new Master's degree program. I also volunteer my service to the university by serving on some committees such as Staff Training (which is producing quality training for hundreds of staff at nearly zero budget) and mediation to prevent grievances from reaching the costly litigation stage.

I am proud of my service to this university. My exemplary record and outstanding job evalations attest to that quality of service. For this work I am paid, after 6 years, \$11.51 per hour. That seems like a very modest pay rate to me, considering comparable pay scales in both the public sector and in other "state" jobs.

To cut my pay 5% would put my rate of pay below my starting rate six years ago. This seems like a slap in the face to all of us who give our all to support this state's higher education. This seems especially harsh in the face of the recent program assessment process, which has cut beyond the bone. Isn't that enough?

Please don't let the Legistative Mad Slashers, who feel any cuts are justified, randomly punish good, caring workers. Please recognize that UAF is doing its part to tighten belts already. Recent severe cutbacks over the past years have been demoralizing enough for everyone at UAF. Having to justify my existence and justify receiving this modest wage for all my work is pretty sad. Please understand that money is not the bottom line; quality education, wherein lies the future of this state, is the real bottom line. Believe me when I tell you, the state is getting more than its money's worth from the good staff of UAF. Please do not make this rash move that will traumatize and drive away quality staff, faculty, and students.

Thank you,


Leah Aronow-Brown

Marcia L. Yenor
P.O. Box 1617
Ward Cove, AK 99928

March 27, 1995

Rep. Pete Kott, Chair
House Labor & Commerce Committee
State Capitol Building, Rm 432
Juneau, AK 99801-1182

Re: House Bill 236

Dear Rep. Kott:

I am presently employed by the University of Alaska Southeast as Personnel Technician. I am new to Ketchikan and would like to continue to make Alaska my home, however, House Bill #236, if passed, would make that impossible.

I was excited about obtaining a position with the University. The rate of pay was not as high as I had hoped, but I thought the benefits, the people, the job itself, not to mention living in Alaska would partially compensate. I have since found that the cost of living in Ketchikan makes it difficult to make ends meet on my present salary. If I were to receive a 5% salary cut, I would have to go elsewhere, where the cost of living is not as high.

I could quote the statistics on the UAS workforce versus state employees, however, I am sure you are well aware of them. Basically, we work longer hours for less pay, have fewer holidays and fewer benefits in general. Since we are not treated as state employees in this respect, I would like to request that we not be treated as state employees regarding the salary cut.

Please carefully consider the impact on UAS employees if they are not exempted from Bill 236.

Respectfully yours,

Marcia L. Yenor
Marcia L. Yenor

Steven L. & Beth M. Davis
2452 Oak Drive
Anchorage, Alaska 99508

March 24, 1995

Pete Kott
State Capitol
M/S 3101
Juneau, Alaska 99801-1182


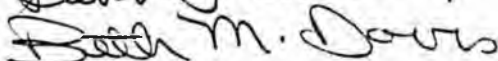
Dear Representative Kott:

Please note our **strong** objection to House Bill No. 236. If passed, this bill will unfairly impact State and University of Alaska Employees. We are twenty-year residents of Alaska and have endured many setbacks due to dwindling revenue. However, we fear that this 5% cutback would impact our household beyond recovery.

Please consider the **real** people behind the statistics. The cost of living in Anchorage has not decreased over the past few years. This legislation would have devastating consequences on our ability to feed and house our family.

Thank you for your consideration.

Sincerely,

Steven L. and Beth M. Davis

RECEIVED

MAR 30 1995

MISS U.....

File 107C

In answering to you re
Rep. T. Haber Dec 10 1994
I feel that you will understand
that I have a daughter who
is in the city in the hospital
my name is all as all others
that work in the state. I have
a son 7 and I have not had a
call since 1993. I wish the best
I hope you are well.

I do not feel you are being fair
by targeting me with this bill.
I would appreciate your support
in voting against this bill.

Thank you.

Sincerely

Judith L. Faber

Judith L. Faber

3031 East 42nd Avenue, #408
Anchorage, Alaska 99508
March 29, 1995

Mr. Pete Kott
Chairman, Labor and Commerce Committee
House of Representatives, State Capitol
Juneau, Alaska 99801-1182

Dear Mr. Kott:

It has come to my attention that the Labor and Commerce Committee is currently considering a bill which would reduce salaries of all state employees by 5%. I feel compelled to write opposing this legislation which would have a traumatic effect on rank-and-file workers such as myself.

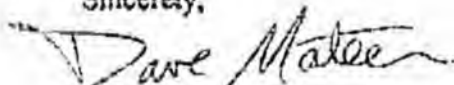
The University recently implemented a new salary scale which provided me with a raise that took effect on January 1. The only reason I received a raise was because my salary was so low that it had to be increased to put me on the bottom rung of the scale for the range of my position. Now I'm looking at the prospect of losing everything that I just gained, especially since such a thing as a "merit raise" seemingly does not exist at the University. I have had superior evaluations since beginning my employment at the University nearly three years ago, however, excelling at my job does not yield any increase in compensation.

I would propose that before cuts are made across the board for all workers, the legislature should closely examine a University that is top heavy in administrative personnel and salaries. Workers at my level have the most direct contact and impact on the people we are here to serve - the students. While a 5% cut across the board may seem fair on the surface, it hits the rank-and-file worker much harder in the pocket book than it does the high-paid administrator. I think there are a number of administrators with six-figure or near six-figure salaries who could be pared from the ranks in a more streamlined organization. Whenever there is a change at the top of the University administration, there is always money available for high-priced staff, moving expenses, etc., but there never seems to be enough money available to adequately compensate the workers in the trenches dealing with students on a daily basis.

Looking at such drastic prospects regarding my salary certainly has me reevaluating my decision to accept employment at the University. I'm sure others in my situation are thinking the same thing. This University is not in a position where it can afford to lose quality workers to the private sector, or even worse, to jobs out of state. I've had experience as a student or employee at five other universities, and the University of Alaska has a long way to go to match the efforts of some of those institutions. Imposing a 5% salary cut on all employees will make it even more difficult for the University to find the staff it needs to compete with those schools.

It is my sincere hope that the state legislature investigate other ways to make the University system more efficient and cost-effective before taking such an extreme measure as the proposed salary cut.

Sincerely,



Dave Mateer

cc:Mail for: Linda Fink

Subject: Re: HB251

From: Becky Hulse at JNU_LAA 3/30/95 7:58 AM

To: Linda Fink at JNU_CAPITOL

I will change the date on the May one to April 5th. Let George know that he will need to set one up for the 7th. Thanks Linda!
Becky

Subject: HB251

Author: Linda Fink

Date: 3/29/95 4:17 PM

HI BECKY...GEORGE SAID THAT THE HOUSE LABOR & COMMERCE HB 251 TELECONFERENCE WILL BE ON WEDNESDAY AND FRIDAY OF NEXT WEEK, I.E., APRIL 5 AND 7 FROM 3 TO 5. LET ME KNOW IF THERE IS A PROBLEM. LINDA



Alaska State Legislature

Please enter into the record my testimony to the House Labor & Commerce
 committee on House Bill #236, dated 4-21-95
committee name
bill/subject

Dear Mr. Representative Kott. I would like to
 urge you not to decrease State workers a 5%
 decrease. I'm a severely disabled State
 worker, who has been working with the State for
 almost 5 years. I started as a Range 8 and have
 worked very hard and with training have worked
 my way to a Range 10. This 5% decrease will
 put my efforts back at least 3 years of
 trying to improve myself & my financial
 situation. My fellow employees (especially us who are
 on the lower Ranges) need your support. Thank you

Signed: Mary Christenson
 Testifier

Mary Christenson
 Representing (Optional)
1016 106th, Anchorage, Alaska 99501
 Address

274-9100
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Labor & Commerce
committee name
committee on HR 236, dated 4-21-95
bill/subject

House Committee Chair Mr. Matt

I would urge you and your Committee
to strongly consider not cutting/Decreasing
State employees salaries. As you know
our Mortgage, Housing cost, Child Care, Car
payments & Medical care (not covered by insurance)
are not going to be decreased therefore we
must continue covering/paying these to survive.
The Dir of Voc Rehab/Dept of Ed Hous. I had a
raise for three yrs however everything else has
increased. Please distribute my message
to all committee members. I will continue to
do my job to the best of my abilities & I do
request that you as all State employees can
understand my stand on this issue.
Respectfully,
Thank you

Signed: Alicia Rose Scott
Testifier

Representing (Optional)
7612 Dover Ave Anchorage, AK 99504
Address
(907) 332-3181
Phone No.

TRANSMITTAL

to: Committee for HB 236
fax #: c/o 376-6180
re: HB 236
date: April 20, 1995
pages: 1, including cover sheet.

Please vote **NO** to the proposed 5% pay cut for state employees!

I am a legal secretary with the Public Defender Agency in Palmer. I have 20 years of experience as a secretary. I earn approximately \$25,000 a year. I work more than a 7-1/2 hour workday without comp time or overtime. I take no breaks during the day; most days I work through lunch. I provide secretarial, paralegal, office management and receptionist duties for five attorneys, one investigator, and one or two interns. I also supervise one part time clerical person and, if we are fortunate enough to get volunteer workers, I also supervise the JTPA trainees. Our office provides defense for 200+ new clients every month, so we are a very busy office. Sometimes we are the client's last chance for help, and we assist them in getting drug or alcohol rehabilitation or mental health counseling. We perform a very necessary service. The attorneys I work with put in long hours, working late into the night and weekends. No one in my office has an "easy State job," nor does anyone in any of the agencies I work with (Courthouse, Juvenile Probation, Adult Probation, District Attorney's Office, Dept. of Corrections).

State employees are underpaid; related jobs in Borough, Municipal or Federal governments are considerably higher. For example, as a legal secretary in the Federal Public Defenders, I made over \$30,000. As a Police Clerk for the Muni. of Anchorage, I also made over \$30,000. A legal secretary for the Mat-Su Borough starts at \$16.00 per hour! Attorneys at the Federal level start at \$90,000 per year; in the State level they start at \$45,000 per year.

I support a family of four almost entirely on my salary of \$25,000 per year; my husband works as a newspaper carrier, and his salary is considerably less. A 5% pay cut would amount to about \$100 per month for me, which may not sound like a lot to people earning \$50,000 plus a year, but at my salary that is a devastating loss. I've already suffered through three years of wage freezes and the increase of insurance premiums. People like me at the lower end of the pay scale really hurt from those "little" things.

I work very hard and I am very good at what I do, but I can't afford to work for the State if state employees are going to be the target of the legislature, the media and the misinformed public. State employees are just people working and trying to survive like anyone else. Please vote against the 5% pay cut.

From the desk of...

Cheryl McKerney

1701 Scotwood Drive
Wasilla, AK 99654

907-373-0565
Fax:

APR-21-95 FRI 07:11

PALMER PUBLIC DEFENDER

FAX NO. 907 746 5163

P. 01

ALASKA PUBLIC DEFENDER AGENCY

*George:
file w/ HB 234
10/10/95
5-1-95
P*

DATE: April 20, 1995

TO: Beverly Masak

FROM: Mary Deaver *Mary Deaver*

RE: State Employees Pay Cut

I would like to take a moment to let you know how the proposed pay cut will affect me and to urge you to vote against it.

As an attorney, I am paid a good salary for which I am very grateful. However, I have almost \$65,000 outstanding in Alaska student loans and a loan payment of more than \$650 per month. This considerably reduces the amount I have to live on. I also owe money to my family and friends, all of whom have helped me over the past few years as I struggled through school on loans. I'd like to feel I can at last repay them.

Although I will feel the pay cut keenly, I have several co-workers who will feel the pinch even deeper. One attorney in our office has a family of six to support. His salary is considerably less than the salaries of municipal and federal attorneys despite the fact that public defenders generally have greater caseloads and work longer hours.

Our secretary makes \$24,000 a year and she is the primary wage earner for a family of four. She is an intelligent, educated powerhouse who functions more as an office administrator than as a secretary. We think she is grievously underpaid now; a pay cut in her case is just plain unfair.

I hope you will support us with your vote on the pay issue. I know state employees have a bad reputation, but most of us are dedicated, hardworking employees.

md

cc: *Legislature Information Agency*

Page 1 of 4

3/30/95

FAX TO: 465-2819

MAIL TO: STATE CAPITOL BLDG

JUNEAU AK 99801-1182

ATTN: REP. JERRY SANDERS

TO: HOUSE LABOR & COMMERCE COMMITTEE

RE: 5% STATE WORKER PAY CUT

IT IS IRONIC THAT APRIL FOOLS DAY WAS CHOSEN TO HOLD HEARINGS ON THE PROPOSED 5% PAY CUT FOR STATE WORKERS. IRONIC IN THAT, AMONG OTHER REASONS, APRIL FOOLS DAY OF 1994 WAS THE DAY THAT I GOT MY LAST PAY CUT.

APRIL 1ST OF 1994 WAS MY LAST DAY OF WORK FOR A PRIVATE ENGINEERING FIRM HERE IN JUNEAU. THEY CLOSED THEIR OFFICE HERE, OTHERWISE I WOULD STILL BE WORKING FOR THEM. LUCKILY, SOON AFTERWARD, I GOT A JOB AS AN ENGINEERING ASSISTANT II FOR DOT & PF.

THERE SEEMS TO BE A POPULARLY HELD GENERAL MISCONCEPTION THAT STATE WORKERS ARE PAID MORE THAN THEIR PRIVATE SECTOR COUNTER-PARTS. OF COURSE I CANT SPEAK FOR ALL OCCUPATIONS, BUT WITH REGARD TO THE FIELD OF ENGINEERING THIS VIEW IS TOTALLY FALSE. LET ME GIVE YOU SOME NUMBERS.

IN APRIL OF 1994 I WAS EARNING A GROSS MONTHLY SALARY OF 3966¹⁰, IN APRIL OF 1995, FOR PERFORMING EXACTLY THE SAME DUTIES, EXCEPT THAT NOW I THINK I HAVE A BIT MORE RESPONSIBILITY, I AM EARNING A GROSS MONTHLY SALARY OF 3160⁵. THIS EQUATES TO A PAY CUT OF

Page 2 of 4

APPROXIMATELY 20% TO WORK FOR THE STATE, AS OPPOSED TO MY WAGE IN THE PRIVATE SECTOR.

IT WOULD SEEM TO ME THAT, IF THE OBJECTIVE IS TO BRING STATE WORKER WAGES IN LINE WITH PRIVATE SECTOR WAGES, I SHOULD BE DUE A 20% PAY INCREASE. GRANTED, MY BENEFITS ARE SOMEWHAT BETTER, BUT QUITE HONESTLY, THEY AREN'T THAT MUCH DIFFERENT.

IF, HOWEVER, THE OBJECTIVE HERE IS TO REDUCE THE COST OF GOVERNMENT WHILE AT THE SAME TIME INCREASING PRODUCTIVITY, YOU ARE DEFINITELY TAKING THE WRONG APPROACH.

AFTER 8 YEARS, ON AND OFF, OF STATE EMPLOYMENT, AND 11 YEARS OF EMPLOYMENT IN VARIOUS PRIVATE SECTOR JOBS, INCLUDING RUNNING MY OWN BUSINESS WITH UP TO 6 OTHER EMPLOYEES I HAVE LEARNED A LITTLE BIT ABOUT EMPLOYEE PRODUCTIVITY.

IN STATE EMPLOYMENT THERE IS LITTLE, IF ANY, INCENTIVE TO PRODUCE A FAIR DAYS WORK FOR A FAIR DAYS PAY. EXCELLENCE AND MEDIOCRITY ARE REWARDED EQUALLY. IN THE PRIVATE SECTOR IF YOU DONT PRODUCE YOU ARE LOOKING FOR A NEW JOB.

THE WAY TO PRODUCTIVITY IS THROUGH WELL PAID, SKILLED AND MOTIVATED EMPLOYEES NOT THROUGH UNDERPAID, DISGRUNTLED AND UNQUALIFIED ONES.

I WOULD SUGGEST THAT STATE GOVERNMENT SHOULD BE RUN MORE LIKE A PRIVATE BUSINESS. THE ABILITY TO REQUIRE

Page 3 of 4

PERFORMANCE AND TO DEMAND AND REWARD EXCELLENCE SHOULD BE GIVEN TO MANAGERS AND SUPERVISORS, AS WELL AS THE ABILITY TO TERMINATE SOMEONE WHO DOES NOT PERFORM.

I WOULD THINK THAT THERE ARE PLENTY OF UNNECESSARY OR REDUNDANT POSITIONS WITHIN THE STATE GOVERNMENT. THE WAY TO SAVE SOME MONEY IS TO CUT POSITIONS AND AGENCYS, NOT PAYCHECKS. I THINK A 25% STAFF REDUCTION AND A 10% PAY INCREASE FOR THOSE REMAINING WOULD SAVE A LOT OF MONEY, AS LONG AS THE POSITIONS CUT ARE CHIEFS RATHER THAN INDIANS, IF YOU KNOW WHAT I MEAN.

A PERSON WHO IS HAPPY WITH HIS PAYCHECK AND HIS SUPERIORS AND HIS GENERAL WORKING CONDITIONS WILL EARN A COMPANY MONEY, WHERE IS A PERSON WHO IS UNHAPPY WILL NOT.

AS FAR AS WHAT A 5% PAY CUT WOULD MEAN TO ME PERSONALLY, IT WOULD, OR COULD, BE POTENTIALLY DEVASTATING. I HAVE BEEN LIVING IN MOBILE HOMES SINCE MOVING OUT OF MOMS HOUSE LONG AGO. IT SEEMED AS THOUGH THE AMERICAN DREAM OF ACTUALLY OWNING MY OWN HOME WOULD BE FOREVER OUT OF REACH. THEN ALONG CAME A 5% INTEREST LOAN PROGRAM FROM THE AHFC, I BARELY QUALIFIED BUT I BOUGHT A HOME AND JUST MADE MY FIRST HOUSE PAYMENT THIS WEEK. I DEFINITELY WOULD NOT HAVE QUALIFIED IF MY GROSS PAY WAS 5% LESS.

Page 4 of 4

THAN IT IS. I HAVE NO IDEA YET WHAT MY UTILITY COSTS ARE GOING TO BE OR HOW MUCH MONEY I AM REALLY GOING TO BE PAYING TO LIVE EACH MONTH.

I, LIKE MANY OTHER STATE WORKERS BELOW RANGE 20, HAVE BEEN AND AM LIVING PAYCHECK TO PAYCHECK WITH VERY LITTLE IF ANY DISCRETIONARY MONEY. IN MY CASE I GIVE MYSELF AN ALLOWANCE OF ABOUT 20th PER WEEK. IF YOU ENACT A 5% PAY CUT I WON'T EVEN HAVE THAT! THIS IS MONEY FOR THINGS LIKE TAKING MY FAMILY TO A MOVIE OR TO GO SKIING, TO GO OUT TO DINNER AND THE LIKE. GRANTED, I COULD SURVIVE WITHOUT THESE THINGS, BUT I AM SURE THAT, IN THESE ENLIGHTENED TIMES, THERE IS SUPPOSED TO BE MORE TO LIFE THAN MERE SURVIVAL.

THINK ABOUT IT, AND THINK ABOUT HOW YOU WOULD FEEL IF YOU WERE IN OUR POSITION. IMAGINE YOUR SON OR DAUGHTER WORKS FOR THE STATE IN A RANGE 10 OR 12 JOB, AND IS A SINGLE PARENT. HOW WOULD THIS PAY CUT AFFECT THEM?

PLEASE DON'T CUT OUR PAY, THERE ARE MANY ALTERNATIVE METHODS TO BALANCING THE BUDGET. HOW ABOUT HAVING GAIL PHILIPPS SEND BACK HER NEW GOV^t WALL CLOCK? 600^t IS 5% OF A 30,000^t/YEAR EMPLOYEE YOU KNOW. 25,000 MORE WALL CLOCKS AND THIS PROBLEM WOULD BE SOLVED.

Thank you for your time & consideration

JAMES E. MAYER
James E. Mayer
PO Box 33217
Juneau AK 99803

03/17/95 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
15:14:10 PARTICIPANT LIST (ALL PARTICIPANTS) BY:SOL
TCN:50435 SCHEDULED FOR:03/17/95 15:00 TO 17:00 FOR:SOL
PUBLIC HEARING HOUSE LABOR & COMMERCE
LOCATION:KEN/SOL
HB 236 . -MS. GINA SAMUEL DOC TESTIFY
HB 236 MRS. ELAINA SPRAKER SELF TESTIFY

03/17/95 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
15:05:50 PARTICIPANT LIST (TESTIFIERS ONLY) BY:JNU
TCN:50435 SCHEDULED FOR:03/17/95 15:00 TO 17:00 FOR:GLN
PUBLIC HEARING HOUSE LABOR & COMMERCE
LOCATION:GLENNALLEN
HB 236 MR. ALLEN ODELL TESTIFY

03/17/95 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
15:19:34 PARTICIPANT LIST (ALL PARTICIPANTS) BY:FBX
TCN:50435 SCHEDULED FOR:03/17/95 15:00 TO 17:00 FOR:FBX
PUBLIC HEARING HOUSE LABOR & COMMERCE
LOCATION:FAIRBANKS
HB 236 MR. RICHARD SEWARD TESTIFY
HB 236 MS. DEBRA CHRISTIANSEN TESTIFY
HB 236 MS. PAT MOSS TESTIFY

HB

237

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 237

Revision Date: _____
 Title: "An Act relating to workers' compensation insurance rate filings; to second independent medical evaluations..."
 Sponsor: Mulder
 Requestor: (H) L&C

Department Affected: Administration
 BRU: Risk Management
 Component: Risk Management
 COMPONENT SERIAL NO. 0071

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Division of Risk Management.

Prepared by: J. Brad Thompson, Director
 Division: Risk Management

Phone: 465-5723
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 3/13/95

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 237

Revision Date: _____
Title: Workers' Compensation
Amendments
Sponsor: Representative Mulder
Requestor: House Labor & Commerce

Department Affected: Labor
BRU: Workers' Compensation
Componer: _____
Workers' Compensation
COMPONENT SERIAL NO. 344

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

CHANGE IN REVENUE FUND SOURCE #						
------------------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: \$ None

ANALYSIS: (Attach a separate page if necessary) Two sections of HB237 would fiscally impact the Workers' Compensation Division. Section 4, AS 23.30.095 (k) "...board may require that a second independent medical evaluation (SHALL) be conducted..." Having the board determine when an IME is necessary would reduce current work load of the adjudication unit. However, the workload reduction of Section 4 would be offset by Section 8, AS23.30.250 (b) "If the board after a hearing, finds that a person has obtained..." This section requires additional hearings that would be complex in nature and require an increase in staff time. The combined effect of these two sections of HB 237 is a zero fiscal impact for the Division.

Prepared by: Paul Grossi, Director Phone: 465-2790
Division: Workers' Compensation Date: 3/10/95

Approved by Commissioner: Tom Cashen, Commissioner
Agency: Department of Labor Date: 3/10/95

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 237

Revision Date: _____
Title: Workers' Compensation Amendments

Department: Commerce and Economic Development
BRU: Insurance
Component: Operations

Sponsor: Representatives Mulder, Porter
Requestor: _____

COMPONENT SERIAL NO. _____ #354

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ 0.0

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
No fiscal impact.

Prepared by:	Joan Brown, Administrative Officer <i>[Signature]</i>	Phone: 465-2597
Division:	Insurance	Date: 3/8/95
Approved by Commissioner:	William L. Hensley <i>[Signature]</i>	Date: 3/8/95
Agency:	Commerce and Economic Development	

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information, call the Governor's Legislative Office



Alaska State Legislature
House of Representatives

~~Transportation~~ Committee

LABOR & Commerce

SUBJECT OF MEETING:

H13 237
Worker's Comp. Amend.

DATE: 3/15/95

PLACE: Capitol Room 17

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Paul Grossi	Division of W. Comp.	Dept. of Labor			465-2790	Y	N	If Committee has questions
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

03/15/95 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
15:10:37 PARTICIPANT LIST (ALL PARTICIPANTS) BY:ANC
TCN:50415 SCHEDULED FOR:03/15/95 15:15 TO 17:00 FOR:ANC
PUBLIC HEARING HOUSE LABOR & COMMERCE

LOCATION: ANCHORAGE

HB 237	KEVIN	DOUGHERTY	TESTIFY
HB 237	DAVID	FORD	TESTIFY
HB 237	WILLY	VAN HEMERT	TESTIFY

03/15/95 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
15:45:18 PARTICIPANT LIST (ALL PARTICIPANTS) BY:ANC
TCN:50415 SCHEDULED FOR:03/15/95 15:15 TO 17:00 FOR:ANC
PUBLIC HEARING HOUSE LABOR & COMMERCE

LOCATION: ANCHORAGE

HB 46	JIM	ROWE	ATA	TESTIFY
HB 237	KEVIN	DOUGHERTY		TESTIFY
HB 237	DAVID	FORD		TESTIFY
HB 237	WILLY	VAN HEMERT		TESTIFY

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 6, 1995

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3-15-95

The LABOR AND COMMERCE Committee considered:

HB 237

HOUSE BILL NO. 237

WORKERS' COMPENSATION AMENDMENTS

"An Act relating to workers' compensation insurance rate filings; to second independent medical evaluations for workers' compensation claims; to immunity for third-party design professionals from civil actions by recipients of workers' compensation benefits; to workers' compensation death benefits; to computation of workers' compensation benefits; to penalties for fraudulent acts related to workers' compensation; to immunity for employer workplace safety inspections related to workers' compensation insurance; and providing for an effective date."

recommends it be replaced the same title
 with the following committee substitute _____ a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) Commerce zero fiscal note(s) _____

Labor; Admin

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			

CHAIR'S SIGNATURE *[Signature]*



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES



CHIEF,
LEGISLATIVE COUNCIL

CO-CHAIR,
HOUSE SENATORIAL COMMITTEE
ON MILITARY AND
VETERANS AFFAIRS

CO-CHAIR,
MILITARY ASSISTANT FOR
ASSEMBLY COUNCIL

REPRESENTATIVE ELDON MULDER
DISTRICT 23 MULDOON-Ft. RICHARDSON

MEMORANDUM

DATE: 09 March, 1995

TO: Rep. Pete Kott, Chair
House Labor and Commerce Committee

FROM: Rep. Eldon Mulder

RE: HB 237

I respectfully request that the House Labor and Commerce Committee schedule a hearing on HB 237, relating to worker's compensation reform. I have attached copies of the legislation, a sponsor statement, and other backup information. The Department of Labor is currently compiling a fiscal statement which will be forwarded to your office upon completion. Please contact my office if you have any questions. Thank you.

Sponsor Statement House Bill 237

For the past 13 years, the Ad Hoc Committee on Workers' Compensation, a private citizen initiative group with representatives from both management and labor associations from around the state, has been working to find solutions to the concerns surrounding Alaska's Workers' Compensation system. Through their efforts the Ad Hoc Committee has been very instrumental in getting several pieces of major workers' compensation reform passed by the legislature.

In October of 1993, the Ad Hoc Committee began meeting regularly and came up with the framework of what is now House Bill 237. The Ad Hoc Committee addressed six specific problem areas in Alaska's workers' compensation laws and came up with solutions agreeable to both labor and management. The six issues dealt with by the Ad Hoc Committee and now House Bill 237 are: death benefit revision, immunity for workplace safety inspections (also known as Van Biene), design professional construction site liability limit, contractor premium adjustable rate, determination of spendable weekly wages (also known as Gilmore), and workers' compensation fraud. Attached to this sponsor statement is a letter from the Ad Hoc Committee giving a break down of these six issues.

It is my hope that the effort put forth by this group will be recognized for its importance and House Bill 237 will be accepted without change.

ALASKA

LABOR-MANAGEMENT AD HOC COMMITTEE ON WORKERS' COMPENSATION

February 23, 1995

The Honorable Eldon Mulder
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Mulder:

The Alaska Labor-Management Ad Hoc Committee on Workers' Compensation is in its thirteenth year of service as a private citizen initiative group formed to fairly address concerns in regard to the Alaska Workers' Compensation system. It was through the efforts of the Ad Hoc Committee that major legislative reform was passed in 1989. Those measures resulted in four years of premium reductions, with 1994 being the first year of a rate increase since 1987.

The Ad Hoc Committee has been meeting regularly since October, 1993 in an attempt to work through some major issues related to workers' compensation. We have recently reached a resolution on several key items that form the basis of our proposed 1995 legislation. Our proposed legislation has had a preliminary review by the Division of Workers' Compensation. The proposed bill contains the following elements:

- **Death Benefit Revision** - The current death benefit has a 10-year cap and also calls for the reduction of benefits at the 5- and 8-year time frame. Although the 10-year cap is still retained to control the cost of claims, it was suggested that the reduction intervals could create hardships for a surviving spouse with small children. It has been estimated that the elimination of the 5- and 8-year reductions will result in an average premium increase of 0.6%.
- **Van Blene** - This portion of the bill provides immunity for insurance carriers, trade associations and other persons providing worksite safety inspections. These inspections are often voluntary and are conducted in the interest of promoting safety in the workplace. Without this immunity, many of the workplace safety inspections will be curtailed to the disadvantage of both employees and employers.

Representative Mulder
February 23, 1995
Page 2

- **Design Professional Construction Site Liability Limit** - Design professionals (i.e. architects, engineers and land surveyors) have limited involvement at the construction site with their main function being periodic observation for conformance to design requirements. While the role of design professionals is clearly defined in contract language, there have been a number of instances in which design professionals have been drawn into lawsuits based simply on their presence at the site.

The proposed statute still allows the injured employee of the contractor to bring suit against the design professional based on negligent plans and specifications. However, the statute prevents the more general charge of professional negligence through failing to detect potentially dangerous conditions during observation of construction. The recognition and correction of such conditions is the sole responsibility of the construction contractor who has control of the work.

Fourteen other states provide a similar immunity, with eight states utilizing nearly identical language.

- **Contractor Premium Adjustment Rate** - The construction industry has long sought a more equitable method of distributing the cost of workers' compensation premiums. With the large variance in pay scale, higher paying employers pay a larger cost for workers' compensation although some costs related to injuries are fixed regardless of wage (e.g. medical, vocational rehabilitation). To bring about a more equitable system, twelve states have adopted regulations establishing a premium adjustment program for the contracting classifications. The process is handled administratively by the rate setting authority.
- **Determination of Spendable Weekly Wages** - A recent Supreme Court decision in the Gilmore case has resulted in confusion regarding the calculation of compensation benefits. The proposed legislation provides a fair, efficient and predictable method of calculating compensation benefits. The methods developed are patterned after model language suggested by the court in the Gilmore ruling. The legislation recognizes the importance of establishing a fair approximation that does not rely on various open-ended determinations that cause uncertainty and increases litigation for both the injured worker and their employers.
- **Fraud** - The revised section broadens the definition of misrepresentation and gives the Board the authority to order reimbursement of monies fraudulently obtained.


Representative Mulder
February 23, 1995
Page 3

The Ad Hoc Committee supports the proposed bill as a single package agreed to by both sides. If you have any questions pertaining to any portion of the bill, please feel free to contact us at any time.

We would also like to point out that there are more issues involving workers' compensation that we will be addressing in the future. These include group self-insurance, medical cost containment (the medical cost portion of worker's compensation payouts in Alaska have more than doubled between 1988 and 1992, from approximately \$20 million to in excess of \$50 million), review of presumption of compensability, and review of benefits including health insurance. These issues will take further research and a great deal of discussion with various groups but they must be dealt with to insure that Alaska's Workers' Compensation system adequately protects injured workers while maintaining an equitable program for employers.

We thank you for your patience in allowing the Ad Hoc Committee to prepare our agreement and we look forward to your continued support in the future.

Sincerely yours,

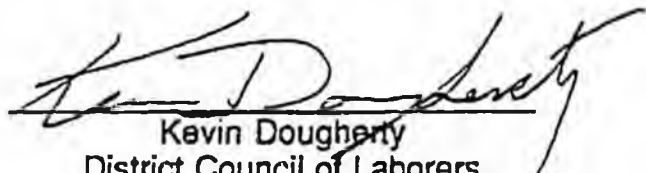


Willem Van Hemert
CRW Engineering Group

Elaine Taylor
Taylored Restoration Services

Mary Shields
Northwest Technical Services

Eric Tollefsen
CARRS Quality Centers
Treasurer, WCCA



Kevin Dougherty
District Council of Laborers

Jeffrey Wertz
Machinist Union Local 601

Royce Rock
Carpenters Union Local 1281

David Ford
Alaska Ironworkers

cc: Senator Tim Kelly
Representative Pete Kott
Representative Brian Porter

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 10, 1995

SUBJECT: Sectional Summary of HB 237. (Work Order No. 9-LS0778\C)

TO: Representative Eldon Mulder
Attn: Tim

FROM: Michael F. Ford *M.F.F.*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 Findings and purpose for section 7.

Section 2. Prohibits an increased insurance rate filing for workers' compensation insurance, if the rate is based on a risk in the construction industry and the risk only consists of a higher wage rate. Requires the director of the division of insurance to accept certain workers' compensation rate filings.

Section 3. Provides that a design professional who provides professional services for a construction project may not be held civilly liable for an injury to a person receiving workers' compensation benefits if the person is injured at the job site of the construction project. Provides certain exceptions for the immunity of the design professional.

Section 4. Changes the second independent medical examination of an injured employee from mandatory to optional at the request of the board in cases where there is a medical dispute over workers' compensation coverage.

Section 5. Requires that benefits payable to recipients residing outside of Alaska be calculated on wages earned in Alaska, if AS 23.30.220(a)(6), (7), or (10) apply to the calculation of gross weekly earnings.

Section 6. Changes death benefits to provide that benefits are not reduced at five and eight years after death.

Representative Eldon Mulder
March 10, 1995
Page 2

Section 7. Provides for calculation of an employee's gross weekly earnings. Gross weekly earnings minus payroll tax deductions equal the employee's spendable weekly wage. The employee's spendable weekly wage is used to calculate the compensation due an injured employee under AS 23.30.

Section 8. Imposes penalties for fraudulent or misleading acts related to workers' compensation benefits. Requires that a person who obtains benefits fraudulently, must make full reimbursement and pay costs and attorney fees of the employer and employer's carrier. Provides for default and collection procedures.

Section 9. Provides that an employer's safety inspector is not civilly liable for acts or omissions in performing certain workplace safety services, unless the act or omission constitutes intentional misconduct.

Section 10. Definitions of seasonal and temporary work.

Section 11. Transition section for certain insurance rate filings.

Section 12. Applicability section for section 2.

Section 13. Effective date.

MFF.glc
95-211.glc

HB

238

HOUSE LABOR AND COMMERCE COMMITTEE

SPONSOR STATEMENT CS HB 238(STA)

The Department of Labor has taken the position that direct sellers are within the coverage of Alaska's unemployment compensation statutes. CS HB 238(STA), should it become law, provides an exemption for direct sellers from such coverage.

Direct sellers are not employees in the common understanding of the term. They are individuals who sell products, with no supervision, directly to their customers. They are not paid a salary, and they are not paid on an hourly basis. Their compensation is based solely on their success in selling products. Because of these factors, direct sellers are individual contractors and not employees, and therefore they are outside the underlying purpose of unemployment compensation.

The federal government, for purposes of the Internal Revenue Code, does not consider direct sellers to be employees. CS HB 238(STA) adopts, by reference, the federal standard. Thus, passage of HB 238 conforms Alaska law with the treatment accorded to direct sellers by federal law.

Your support is encouraged.



19501 E. Walnut Dr., Box 1950, City of Industry, CA 91749
(XXX) 598-8598 FAX (909) 594-8961

FAX TRANSMITTAL FORM
(If you do not receive this FAX complete,
please call 909-598-8598 or FAX 909-594-8961)

DATE: April 7, 1995
FAX TO: Rep. Peto Kott
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182
FAX NO: (907) 465-2819
FAX FROM: Mulford J. Nobbs
President and CEO
SUBJECT: Adoption of House Bill 238
NO. OF PAGES: 1
(including this sheet)

Dear Representative Kott:

As the President of a direct sales company doing business for over 36 years, I strongly believe that direct sellers, as small independent business people, should not be eligible for unemployment compensation.

Direct sales people are not employees of the company. They are in business for themselves. Their earnings are based upon their sales efforts. There are literally millions of direct sellers in the United States alone. The money that they earn from their part-time efforts in direct selling contributes greatly to the economy of every city, town, county and state. The effect of making them employees would cause many companies to get out of the direct selling business because of the increased record keeping requirements and costs. It would also demand more stringent requirements on the direct selling individual's time and reporting. It would make it impossible for a large percentage of these people to remain in the direct selling business and also have a definite effect on the economy.

House Bill 238 confirms this status by referring to an accepted standard of the federal law and eliminates any chance that existing law could be misapplied to direct sellers.

-2-

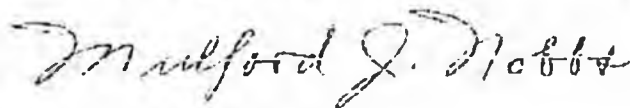
It is vital that a clear exemption applicable to all direct sellers be adopted. House Bill 238 would do so. Senate Bill 122 would not.

I urge you to support House Bill 238 on behalf of all the direct selling companies in the United States.

Thank you for your consideration of House Bill 238.

Sincerely yours,

JEUNIQUE INTERNATIONAL, INC.



Mulford J. Nobbs
President and CEO

MJN:jw



March 27, 1995

Pete Kott, Chair
Alaska State Legislature
House Labor and Commerce Committee
State Capitol
Juneau, AK 99801-1182

RE: **ALASKA H.B. 238 and S.B. 122 Unemployment Compensation**
POSITION: **OPPOSE AS DRAFTED, SUPPORT AMENDMENT TO ADOPT FEDERAL EXEMPTION LANGUAGE ONLY**

Dear Chairman Kott:

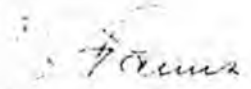
It is my understanding that the above referenced bills were supposed to exempt direct sellers from unemployment compensation, but would only protect sellers who are physically present in a consumer's home at the time of sale, and only for transactions that occur in the customer's home.

These bills would create a definition of a direct seller which is not consistent with how a direct seller operates. Direct sellers engage in a variety of selling methods. Sales by direct sellers may occur in the direct sellers home, someone else's home, or an office. Many direct sales presentations are made at parties in an individual's home, where the home belongs to a third party, and not the customer or seller.

The federal government and dozens of other states have adopted direct seller exemptions with exemption language which is consistent between the states and the federal government. This language has been the result of thousands of hours of work by many parties to promote a level consistency for direct selling companies operating in several states across the nation. Alaska should adopt a direct seller exemption which conforms to exemptions adopted by other states and the federal government.

As the bills are currently written, most direct sellers in Alaska would not be able to take advantage of the proposed direct seller exemption. If the bills are not changed, they will not benefit the direct sellers or the direct selling industry in Alaska.

Sincerely,


Christopher J. Panus
Legal Coordinator

RECEIVED
APR 4 1995

AKS U.....

cc: Executive Board

116 East State Street Juneau, AK 99801-6228
(716) 373-6141 Fax (716) 373-6145

 CUTCO The World's Finest Cutlery

**DSA SUGGESTED AMENDMENT
TO ALASKA'S LABOR AND WORKERS' COMPENSATION LAW
ALTERNATIVE #1**

Sec. 23.20.526(a) is amended by adding a new paragraph to read:

(21) service by a direct sellers if

(A) such person is:

(i) engaged in the trade or business of selling (or soliciting the sale of) consumer products, ~~(services or other intangibles)~~ to any buyer on a buy-sell basis or a deposit-commission basis for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, or (ii) is engaged in the trade or business of selling (or soliciting the sale of) consumer products, services or other intangibles in the home or otherwise than in a permanent retail establishment,

(B) substantially all the remuneration (whether or not paid in cash) for the performance of the services described in subparagraph (21)(A) is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

(C) the services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee for federal and state tax purposes.

**DSA SUGGESTED AMENDMENT
TO ALASKA'S LABOR AND WORKERS' COMPENSATION LAW
ALTERNATIVE #2**

Sec. 23.20.526(a) is amended by adding a new paragraph to read:

(21) services by a direct sellers as defined by 26 U.S.C. Section 3508.



Department
of the
Treasury

Internal
Revenue
Service

Publication 911
Cat. No. 60031B

Tax Information for Direct Sellers

For use in preparing
1993 Returns



Contents

Introduction	1
Direct Sellers	2
Tax Information.....	2
Business Income.....	4
Capital Expenses.....	5
Cost Recovery.....	5
Business Expenses.....	7
Business Use of Your Home	9
Travel and Transportation	9
Meals and Entertainment.....	9
Business Gifts.....	10
Not-for-Profit Limit.....	11
Recordkeeping.....	11
Sample Filled-In Forms	13
Index.....	18

Important Change for 1993

Section 179 deduction. The section 179 deduction has been increased to \$17,500 for property placed in service after December 31, 1992. See *Section 179 Deduction*, later.

Important Reminder

Schedule C-EZ. You may be able to use Schedule C-EZ, *Net Profit From Business*, for 1993 if you operated a business or practiced a profession as a sole proprietor and you meet all of the following requirements:

- 1) Had gross receipts of \$25,000 or less.
- 2) Had expenses of \$2,000 or less.
- 3) Use the cash method of accounting.
- 4) Did not have a net loss from your business.
- 5) Had only one business as a sole proprietor.
- 6) Had no employees for the year.
- 7) Are not required to file Form 4562.
- 8) Do not deduct expenses for business use of your home.
- 9) Do not have prior year unallowed passive activity losses from this business.

Introduction

This publication provides general tax information for direct sellers. It discusses the tax treatment of income, expenses, and other items related to your direct selling business.

This publication is not intended for the salesperson who works in a store, sells through a retail sales outlet, or sells the employer's product away from the employer's place of business.

Useful Items

You may want to see:

Publication

- 15 Circular E, Employer's Tax Guide
- 463 Travel, Entertainment, and Gift Expenses
- 505 Tax Withholding and Estimated Tax
- 525 Taxable and Nontaxable Income
- 533 Self-Employment Tax
- 535 Business Expenses
- 538 Accounting Periods and Methods
- 583 Taxpayers Starting a Business
- 587 Business Use of Your Home
- 817 Business Use of a Car
- 937 Employment Taxes and Information Returns
- 948 How To Begin Depreciating Your Property

Form (and Instructions)

- SS-4 Application for Employer Identification Number
- Sch A (Form 1040) Itemized Deductions
- Sch C (Form 1040) Profit or Loss From Business
- Sch SE (Form 1040) Self-Employment Tax
- 1040 U.S. Individual Income Tax Return
- 1040-ES Estimated Tax for Individuals
- 1099-MISC Miscellaneous Income
- 2210 Underpayment of Estimated Tax by Individuals and Fiduciaries
- 4562 Depreciation and Amortization
- 8188 At-Risk Limitations
- 8829 Expenses for Business Use of Your Home

Ordering publications and forms. To order free publications and forms, call our toll-free telephone number 1-800-TAX-FORM (1-800-829-3676). You can also write to the IRS Forms Distribution Center nearest you. Check your income tax package for the address.

Direct Sellers

Direct sellers sell consumer products to others on a person-to-person basis, usually working out of their own homes. They may sell door-to-door, through the sales party plan, or by appointment in someone else's home. Their customers may be coworkers, friends, relatives,

or neighbors. They may sell on a regular basis or only occasionally. They may sell as full-time work or as a sideline to a regular job.

A direct seller usually signs up with a particular company to sell its product line. The company may use one of many titles for its direct sellers, including:

- Consultant
- Coordinator
- Dealer
- Demonstrator
- Designer
- Director
- Distributor and direct distributor
- Instructor
- Manager or supervisor
- Representative or sales representative

Self-employed. You are self-employed as a direct seller if you meet all of the following conditions:

- 1) You are engaged in the trade or business of selling or soliciting the sale of consumer products, either—
 - a) In a home or other place that is not a permanent retail establishment, or
 - b) To any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis for resale by the buyer or any other person in a home or other place that is not a permanent retail establishment.
- 2) Substantially all your pay (whether paid in cash or not) for services described in (1) is directly related to sales or other output (including the performance of services) rather than to the number of hours worked.
- 3) Your services are performed under a written contract between you and the person for whom you perform the services, and the contract provides that you will not be treated as an employee for federal tax purposes.

Employee. You are a direct seller only if you are in business for yourself. Selling consumer products as a company employee does not make you a direct seller. The fact that you work under another direct seller does not make you that person's employee.

Recruiting. You are engaged in the trade or business of selling or soliciting if you attempt to increase the sales of direct sellers who work under you and your pay depends on how much they sell. Recruiting, motivating, and training are examples of attempts to increase sales activities.

Host or hostess. You are not a direct seller if you simply host a party at which sales are made. Nevertheless, some information in this publication may still apply to you:

- 1) The "gift" you receive for giving the party is a payment for helping the direct seller make sales. You must report it as income

at its fair market value. See *Other Income*, later.

- 2) Your out-of-pocket party expenses are subject to the 80% limit for meal and entertainment expenses, discussed later. These expenses are deductible as miscellaneous itemized deductions subject to the 2% limit on Schedule A (Form 1040), but only up to the amount of income you receive for giving the party. See *Not-for-Profit Limit*, later.

Tax Information

The following discussion gives basic tax information that may help if you have never been in business for yourself. For more information, see Publication 583, *Taxpayers Starting a Business*.

Employer Identification Number (EIN)

You need an EIN for your business if:

- 1) You have a Keogh plan, or
- 2) You are required to file one of the following tax returns:
 - a) Employment.
 - b) Excise.
 - c) Fiduciary.
 - d) Alcohol, tobacco, and firearms.

Otherwise, your identification number is your social security number. However, a partnership or corporation needs an EIN to use as its identification number. It cannot use the social security number of a partner or owner.

Use Form SS-4, *Application for Employer Identification Number*, to apply for an EIN.

Business Taxes

Three kinds of business taxes may apply to direct sellers:

- 1) Income tax.
- 2) Self-employment tax.
- 3) Employment taxes.

Income tax. Each business must file an annual income tax return. For example, if you operate your direct-selling business as a sole proprietor, you must file Schedule C (Form 1040). You are a sole proprietor if you are self-employed (work for yourself) and are the only owner of your unincorporated business.

Self-employment tax. Self-employment tax is the social security and Medicare tax for those who work for themselves. It is like the social security and Medicare taxes withheld from the pay of wage earners. You may have to pay this tax on income from direct selling if you are either the sole proprietor of your business or a partner in a partnership. Use Schedule SE (Form 1040) to figure and report self-employment tax. For more information on self-employment tax, see Publication 533.

Employment taxes. If you have employees in your business, you will probably be required to withhold and pay employment taxes. These taxes include:

- 1) The federal income tax you withhold from employees' wages.
- 2) Social security and Medicare (FICA) taxes—both the amount you withhold from employees' wages and the amount you pay as employer, and
- 3) Federal unemployment tax (FUTA) which is not withheld from employees' wages but paid by the employer.

For more information, see Publication 837 and Publication 15.

Other taxes. For information on deducting personal property and other taxes, see *Taxes* under *Business Expenses*, later.

Estimated Tax

The federal income tax is a pay-as-you-go tax. You must pay it as you earn or receive income during the year. There are two ways to pay as you go:

- 1) **Withholding.** If you are an employee, your employer probably withholds income tax from your pay. You can ask your employer to increase the amount withheld to cover the income both from your job and from direct selling.
- 2) **Estimated tax.** If you do not pay tax through withholding, or do not pay enough tax that way, you may have to pay estimated tax.

Estimated tax is used to pay both income and self-employment taxes (and certain other taxes and amounts reported on Form 1040). Estimated tax is discussed in Publication 505.

\$500 minimum. You do not have to pay estimated tax if your total expected taxes, minus any expected tax credits and withholding, will be less than \$500 for the year or you had zero tax liability last year.

Form 1040-ES. Use Form 1040-ES to figure your estimated tax and make estimated tax payments.

Form 2210. If you did not pay enough estimated tax or have enough income tax withheld, you may be subject to a penalty. You can use Form 2210 to figure the penalty. Or, in most cases, you can have the Internal Revenue Service figure the penalty for you. See the instructions to determine if you must complete the form.

Information Returns

If you have other direct sellers working under you and you sell \$5,000 or more in goods during the year to any one of those sellers, you must report the sales on an information return. The information return, Form 1099-MISC, must show the name, address, and identification number of the seller placing the orders.

Check Box 9 of Form 1099-MISC to show these sales. No dollar amount is needed. You must give Copy B or a qualified statement (such as a letter showing this information along with commissions, prizes, awards, etc.) to the seller by January 31, 1994.

Copy A of Form 1099-MISC must be filed with the Internal Revenue Service by February 28, 1994. Use Form 1096 to summarize and transmit Form 1099-MISC. See the instructions to Form 1096 for the address of the Internal Revenue Service Center where you must file Form 1096 and the accompanying Forms 1099-MISC.

Penalties

The law imposes penalties to ensure that all taxpayers pay their fair share of taxes. Some of these penalties are listed below. If you do not file a return when required or provide fraudulent information, you may be subject to a civil fraud penalty. In certain cases, you may be subject to criminal prosecution.

Failure-to-file penalty. If you do not file your return by the due date (including extensions), you will have to pay a failure-to-file penalty. The penalty is 5% of the tax not paid by the due date for each month, or part of a month, that the return is late. This penalty cannot be more than 25% of your tax, but it is reduced by the failure-to-pay penalty (defined next) for any month both penalties apply. However, if your return is more than 60 days late, the penalty will not be less than \$100 or 100% of the tax balance, whichever is less. You will not have to pay the penalty if you can show reasonable cause for not filing on time.

Failure-to-pay penalty. You will have to pay a penalty of 1/2 of 1% of your unpaid taxes for each month, or part of a month, after the due date for tax not paid. This penalty cannot be more than 25% of your unpaid tax. You will not have to pay the penalty if you can show good reason for not paying tax on time. This failure-to-pay penalty is in addition to the failure-to-file penalty.

Penalty for frivolous return. You will have to pay a penalty of \$500 if you file a return that does not include enough information to figure the correct tax, or a return that shows an incorrect tax amount, and the reason you filed such a return is due to:

- 1) A frivolous position on your part, or
- 2) A desire to delay or interfere with the administration of federal income tax laws.

This penalty is in addition to any other penalty provided by law.

Accuracy-related penalties. An accuracy-related penalty of 20% is applied to any underpayment due to

- 1) Negligence or intentional disregard of rules or regulations.
- 2) Substantial understatement of income tax.

This penalty also applies to conditions not discussed here.

None of these penalties can be stacked. Thus, even though the same underpayment may be subject to both the negligence or substantial underpayment penalty, the total accuracy-related penalty cannot exceed 20% of the underpayment. Neither penalty may be imposed if there is reasonable cause accompanied by good faith.

Negligence. Negligence includes the lack of any reasonable attempt to comply with provisions of the Internal Revenue Code.

Disregard. Disregard includes the careless, reckless, or intentional disregard of rules or regulations.

Substantial understatement of income tax. For an individual, income tax is substantially understated if the omitted amount exceeds the greater of:

- 1) 10% of the correct tax, or
- 2) \$5,000.

Information reporting penalties. Any person who does not file an information return or a complete and correct information return with the IRS on or before the required filing date is subject to a penalty for each failure. An escalating time-sensitive penalty rate is applied to information returns as follows:

- 1) Correct information returns filed within 30 days after the due date, \$15 each.
- 2) Correct information returns filed after the 30-day period but before August 1, \$30 each.
- 3) Information returns filed after August 1, or never filed, \$50 each.

Maximum limits apply to all these penalties.

Failure to furnish correct payee statements. Any person who does not provide a taxpayer with a complete and correct copy of an information return (payee statement) on or before the required due date is subject to a penalty of \$50 for each statement. If the failure is due to intentional disregard of the requirement, the penalty is the greater of:

- 1) \$100 per statement, or
- 2) 10% or 5% (depending on the type of statement) of the amount to be shown on the statement.

Identification numbers and other information. Any person who does not comply with other specified reporting requirements, including the use of correct identification numbers (employer identification numbers and social security numbers), is subject to a penalty of \$50 for each failure. This includes failures to:

- 1) Use correct identification numbers for yourself, your spouse, and your dependents on returns and statements.
- 2) Use correct identification numbers for other taxpayers when required.
- 3) Supply correct identification numbers when required by another taxpayer, such as a bank.

MEMORANDUM**STATE OF ALASKA
DEPARTMENT OF LABOR
Office of the Commissioner**

TO: Rep. Jeanette James
Chair
House State Affairs

DATE: March 27, 1995

THRU: Pat Pouchot
Legislative Director
Office of the Governor

FILE: daabux

PHONE: 465-3700

FROM: Ed Flanagan *EF*
Deputy Commissioner

SUBJECT: HB 238 - UI for
Direct Sellers

The Department of Labor is rarely, if ever, supportive of legislation removing employers or classes of employees from coverage under any of its protective statutes, such as minimum wage, overtime, unemployment, or workers compensation. These programs are not voluntary, and in the case of unemployment compensation the health of the UI Trust Fund is always a concern if a class of employee is removed from coverage. The Department's opposition is almost reflexive, since even if a seemingly valid case can be made for removal of one small group of employees from any of our statutes, there are always other employers ready to pile on an existing bill or have one of their own introduced to further expand the classes of employees not covered by our public protection statutes. The increase in cases in recent years where employers attempt to circumvent statutory requirements by declaring employees such as waiters and waitresses "independent contractors" also contributes to the department's opposition to any dilution of existing law.

In the case of HB 238, the Department's initial reaction was to oppose any exemption for direct sellers. During discussions with the proponents of the bill, however, the Commissioner asked how the situation of Kirby vacuum cleaner salespeople differed from other sellers of consumer products such as Amway, Avon, Shaklee, Mary Kay, etc. Our UI tax section responded that those entities were never audited or taxed because the sellers involved were clearly independent contractors, not employees, under existing law. Kirby's situation differed in that the sellers had a relationship with a distributor who operated a retail establishment, was in the same business as the dealers, and provided support to them in the form of training, leads, etc. This relationship has always caught the Kirby sellers in the statutory definition of "employees", subject to UI tax.

The Department could find no case where an audit of a Kirby distributor was the result of a "blocked claim", where a former employee sought to draw UI based on wages earned selling for Kirby.

- 2 -

March 27, 1995

in an effort to rectify what seemed to be an inappropriate (but legally correct and not "waivable" without statute change) application of the law, the Commissioner directed me to work with the staff of the bill sponsor, Senator Kelly, to see if we could come up with language that would address the situation of the Kirby sellers without jeopardizing the trust fund or the rights of other workers properly classified as employees.

The original draft submitted by the Direct Sellers Association was unacceptable, because it allowed sales outside the prospective purchaser's home, allowing the possibility of telephone sales "boiler room" operations claiming exemption, and included the sales of "services" which invites abuse by home improvement contractors, cleaning services, etc. The language in the current senate bill addressed the concerns of the department and satisfied the sponsor, organized labor, the proponents of the bill, and the national office of Kirby.

Then the Direct Sellers Association got into the act. Citing opposition from Amway Corporation, which may be under the misperception that their dealers are affected by this bill and has therefore stirred up its Alaskan sellers to oppose it, DSA's lobbyist is basically telling the department and the legislature that we have to slavishly adopt the federal language covering direct sellers or he will kill the bill. The federal language is not acceptable to the Alaska Department of Labor and if it is incorporated into a committee substitute we will oppose it. (We find it interesting that if the federal language is so wonderful, DSA sought to "improve" it by adding sellers of services - is there a national agenda at work here?).

The department has tried in good faith to address the situation of an Alaskan business, and we believe the senate bill does that. The department has never considered Amway, Mary Kay or other similar sellers "employees"; to do so would be inconsistent with the substantial body of precedential case law on this issue. Our experience in this matter only confirms prior opinion that any revision to the statute is a bad idea.

MEMORANDUM

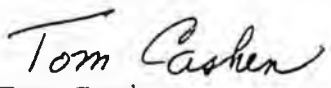
STATE OF ALASKA DEPARTMENT OF LABOR Office of the Commissioner

TO: Rep. Pete Kott
Chairman
House Labor and Commerce

DATE: April 11, 1995

FILE: repkott

PHONE: 465-2700

FROM: 
Tom Cashen
Commissioner

SUBJECT: HB 238 - UI for
Direct Sellers

Enclosed is a memorandum from this office to Rep. James stating our objections to the State Affairs Committee Substitute for HB 238. The Department worked with the Senate sponsor to come up with language that addressed our serious reservations with the federal code and satisfied the proponents of the bill and organized labor. We do not feel compelled to buy off on somebody else's "model legislation" whether it comes from the IRS or an Outside trade association such as DSA. The concerns raised about the Senate version somehow causing entities such as Amway, which we have never audited or taxed, to suddenly lose their independent contractor status are specious, at best.

The Department of Labor urges you and your committee to adopt the language of the senate bill as a committee substitute or take up the senate bill itself. We are opposed to a verbatim regurgitation of the federal TEFRA language, which will create more problems than it solves.

As always, we appreciate the attention which you have extended to our concerns.

MEMORANDUM

STATE OF ALASKA DEPARTMENT OF LABOR Office of the Commissioner

TO: Rep. Jeanette James
Chair
House State Affairs

DATE: March 30, 1995

FILE: dsasux

THRU: Pat Fouchot
Legislative Director
Office of the Governor

PHONE: 465-2700

FROM: Ed Flanagan *EF*
Deputy Commissioner

SUBJECT: HB 238 - UI for
Direct Sellers

The Department of Labor is rarely, if ever, supportive of legislation removing employers or classes of employees from coverage under any of its protective statutes, such as minimum wage, overtime, unemployment, or workers compensation. These programs are not voluntary, and in the case of unemployment compensation the health of the UI Trust Fund is always a concern if a class of employee is removed from coverage. The Department's opposition is almost reflexive, since even if a seemingly valid case can be made for removal of one small group of employees from any of our statutes, there are always other employers ready to pile on an existing bill or have one of their own introduced to further expand the classes of employees not covered by our public protection statutes. The increase in cases in recent years where employers attempt to circumvent statutory requirements by declaring employees such as waiters and waitresses "independent contractors" also contributes to the department's opposition to any dilution of existing law.

In the case of HB 238, the Department's initial reaction was to oppose any exemption for direct sellers. During discussions with the proponents of the bill, however, the Commissioner asked how the situation of Kirby vacuum cleaner salespeople differed from other sellers of consumer products such as Amway, Avon, Shaklee, Mary Kay, etc. Our UI tax section responded that those entities were never audited or taxed because the sellers involved were clearly independent contractors, not employees, under existing law. Kirby's situation differed in that the sellers had a relationship with a distributor who operated a retail establishment, was in the same business as the dealers, and provided support to them in the form of training, leads, etc. This relationship has always caught the Kirby sellers in the statutory definition of "employees", subject to UI tax.

The Department could find no case where an audit of a Kirby distributor was the result of a "blocked claim", where a former employee sought to draw UI based on wages earned selling for Kirby.

In an effort to rectify what seemed to be an inappropriate (but legally correct and not "waivable" without statute change) application of the law, the Commissioner directed me to work with the staff of the bill sponsor, Senator Kelly, to see if we could come up with language that would address the situation of the Kirby sellers without jeopardizing the trust fund or the rights of other workers properly classified as employees.

The original draft submitted by the Direct Sellers Association was unacceptable, because it allowed sales outside the prospective purchaser's home, allowing the possibility of telephone sales "boiler room" operations claiming exemption, and included the sales of "services" which invites abuse by home improvement contractors, cleaning services, etc. The language in the current senate bill addressed the concerns of the department and satisfied the sponsor, organized labor, the proponents of the bill, and the national office of Kirby.

Then the Direct Sellers Association got into the act. Citing opposition from Amway Corporation, which may be under the misperception that their dealers are affected by this bill and has therefore stirred up its Alaskan sellers to oppose it, DSA's lobbyist is basically telling the department and the legislature that we have to slavishly adopt the federal language covering direct sellers or he will kill the bill. The federal language is not acceptable to the Alaska Department of Labor and if it is incorporated into a committee substitute we will oppose it. (We find it interesting that if the federal language is so wonderful, DSA sought to "improve" it by adding sellers of services - is there a national agenda at work here?).

The department has tried in good faith to address the situation of an Alaskan business, and we believe the senate bill does that. The department has never considered Amway, Mary Kay or other similar sellers "employees"; to do so would be inconsistent with the substantial body of precedential case law on this issue. Our experience in this matter only confirms prior opinion that any revision to the statute is a bad idea.



DIRECT SELLING ASSOCIATION
1444 R Street, NW, Suite 1218, Washington, DC 20004-2874
202/495-8700 • Fax 202/463-8560

TEN REASONS TO PASS THE HOUSE CS FOR S.B. 122(STA) AND THE CS FOR H.B. 239 (STA)

- 1. TO CONFIRM DIRECT SELLERS' STATUS UNDER ALASKA LAW. DIRECT SELLERS ARE INDIVIDUALS WHO SELL THROUGH PERSONAL EXPLANATION AND DEMONSTRATION IN HOME AND OFFICE PARTIES, AS WELL AS DOOR-TO-DOOR SALES. 10,000 ALASKANS SELL AS INDEPENDENT CONTRACTORS FOR COMPANIES LIKE AVON, AMWAY, KIRBY, MARY KAY, SHAKLEE, TUPPERWARE AND 150 OTHERS.**
- 2. TO ASSIST OVER 10,000 ALASKANS IN THEIR PART-TIME INDEPENDENT DIRECT SELLING BUSINESS ACTIVITIES; THESE ALASKA CITIZENS DEPEND ON MODEST DIRECT SELLING INCOME TO HELP SUPPORT THEIR FAMILIES.**
- 3. TO ELIMINATE THE POSSIBILITY OF MISAPPLICATION OF ALASKA UNEMPLOYMENT LAW TO DIRECT SELLERS UNDER THE EXISTING, VAGUE "ABC" TEST. ALL PARTIES, INCLUDING THE DEPARTMENT OF LABOR, AGREE THAT DIRECT SELLERS SHOULD NOT BE CONSIDERED "EMPLOYEES" UNDER THE STATE'S UC LAW.**
- 4. TO ASSIST ONE LOCAL DIRECT SELLER CURRENTLY ENGAGED IN LITIGATION OVER THAT SELLERS' INDEPENDENT CONTRACTOR STATUS. ALL PARTIES AGREE THAT VAGUENESS IN THE LAW SHOULD BE CORRECTED TO ELIMINATE THE MISAPPLICATION OF THE LAW IN THIS CASE AND TO PREVENT FUTURE SIMILAR CASES.**
- 5. TO USE LANGUAGE WHICH PRECISELY AND ACCURATELY DEFINES ALL DIRECT SELLERS. DESPITE THEIR INTENT, THE BILLS' ORIGINAL VERSIONS WOULD HAVE HARMED DIRECT SELLERS BY INCORRECTLY DEFINING THEM. THE VERSIONS NOW BEFORE YOU HAVE BEEN AMENDED TO SIMPLY AND ACCURATELY DEFINE ALL DIRECT SELLERS.**
- 6. TO ENSURE THAT DIRECT SELLERS CAN CONTINUE TO SELL IN THE HOMES OF THEIR CUSTOMERS, THE WORKPLACES OF THEIR CUSTOMERS, AND THE HOMES OF PARTY HOSTESSES WITHOUT POSSIBLY LOSING THEIR INDEPENDENT CONTRACTOR STATUS.**
- 7. TO USE TESTED, KNOWN LANGUAGE WHICH SINCE 1982 HAS BEEN USED ON A LIMITED BASIS TO DEFINE ONLY DIRECT SELLERS.**
- 8. TO HELP CREATE A RATIONAL, UNIFORM STANDARD AMONG THE STATES TO DEFINE DIRECT SELLERS. SOME 25 STATES AND THE U.S. CODE USE THIS LANGUAGE.**
- 9. TO ELIMINATE UNNECESSARY ADMINISTRATIVE PROCEEDINGS REGARDING DIRECT SELLER'S STATUS UNDER THE EXISTING LAW. THIS BILL WOULD SIMPLIFY THAT PROCESS BY CLARIFYING DIRECT SELLERS' STATUS.**
- 10. TO REDUCE OR ELIMINATE THE STATE'S COSTS IN HAVING TO NEEDLESSLY ADMINISTER THOSE PROCEEDINGS.**

FISCAL NOTE

Nc _____
 Bill Version: CSHB 238 (STA)
 (H) Publish Date: 4/6/95

**STATE OF ALASKA
 1995 LEGISLATIVE SESSION**

Revision Date: _____
 Title: No unemployment comp for
 direct sellers
 Sponsor: House Labor & Commerce
 Requestor: House State Affairs

Department Affected: Labor
 BRU: Employment Security
 Component: Employment/Unemployment Services
 COMPONENT SERIAL NO. 1807

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 97	FY 88	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
----------------	--	--	--	--	--	--

CHANGE IN REVENUE FUND SOURCE #						
--	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1008 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact \$ None

ANALYSIS: (Attach a separate page if necessary)

This bill excludes certain direct sellers from unemployment insurance coverage. The bill would have no significant impact on the Unemployment Insurance Trust Fund as the services exempted by this bill represent less than 500 Alaskans. Of this number, a very small percentage have filed for UI benefits with a negligible impact on administrative or trust fund dollars.

Prepared by: Rebecca Nance, Director for RN Phone: 465-2712
 Division: Employment Security Date: 3/15/95

Approved by Commissioner: Tom Cashen, Commissioner
 Agency: Department of Labor Tom Cashen Date: 3/15/95

COMMITTEE COPY
 PREPARED TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

No. _____
 Bill Version: CSHB 238 (STA)
 (H) Publish Date: 4/6/95

**STATE OF ALASKA
 1995 LEGISLATIVE SESSION**

Revision Date: _____
 Title: No unemployment comp for
 direct sellers
 Sponsor: House Labor & Commerce
 Requestor: House State Affairs

Department Affected: Labor
 BRU: Employment Security
 Component: Employment/Unemployment Services
 COMPONENT SERIAL NO. 1807

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
----------------	--	--	--	--	--	--

CHANGE IN REVENUE FUND SOURCE #						
--	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)
 This bill excludes certain direct sellers from unemployment insurance coverage. The bill would have no significant impact on the Unemployment Insurance Trust Fund as the services exempted by this bill represent less than 500 Alaskans. Of this number, a very small percentage have filed for UI benefits with a negligible impact on administrative or trust fund dollars.

Prepared by: Rebecca Vance, Director *RN* Phone: 465-2712
 Division: Employment Security Date: 3/15/95

Approved by Commissioner: Tom Cashen, Commissioner
 Agency: Department of Labor *Tom Cashen* Date: 3/15/95

COMMITTEE COPY PREFERRED TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

Nc _____
 Bill Version: CSHB 238 (STA)
 (H) Publish Date: 4/6/95

**STATE OF ALASKA
 1995 LEGISLATIVE SESSION**

Revision Date: _____
 Title: No unemployment comp for
 direct sellers
 Sponsor: House Labor & Commerce
 Requestor: House State Affairs

Department Affected: Labor
 BRU: Employment Security
 Component: _____
 Employment/Unemployment Services
 COMPONENT SERIAL NO. 1807

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
----------------	--	--	--	--	--	--

CHANGE IN REVENUE FUND SOURCE #						
--	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1008 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) Impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

This bill excludes certain direct sellers from unemployment insurance coverage. The bill would have no significant impact on the Unemployment Insurance Trust Fund as the services exempted by this bill represent less than 500 Alaskans. Of this number, a very small percentage have filed for UI benefits with a negligible impact on administrative or trust fund dollars.

Prepared by: Rebecca Vance, Director for RN Phone: 465-2712
 Division: Employment Security Date: 3/15/95

Approved by Commissioner: Tom Cashen, Commissioner Date: 3/15/95
 Agency: Department of Labor Tom Cashen

COMMITTEE COPY PREPARED TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office



March 27, 1995

DUANE R. EVANS

VICE PRESIDENT

FINANCE AND CHIEF

ADMINISTRATIVE OFFICER

FAX: 507/465-2819

Representative Pete Kott
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

RE: Alaska H.B. 258 and S.B. 122- Unemployment Compensation

Dear Representative Kott:

Watkins Incorporated is a direct selling company based in Winona, Minnesota. We have been in business for 127 years. Watkins products are sold by many thousands of independent representatives throughout the U.S. and Canada directly to consumers. Representatives purchase from us at wholesale and sell at retail. They are not paid any wages or commissions. They are independent contractors and not employees or agents.

The majority of Watkins representatives are women who sell on a part-time basis to supplement family income. There is a high representative turnover in the direct selling industry. Very large numbers enter and exit the representative organizations on a daily basis.

We are concerned about the limiting effects of the language exempting direct sellers from unemployment compensation requirements which apply only for direct selling representatives who are in the consumer's home and for only those transactions that occur in the customer's home.

We urge that the language of the exemption be clarified to conform to the federal direct seller exemption (26 U.S.C., Sec. 3508). This would not in any way preempt state law but simply make the exemption language uniform with federal law and the law of many states.

Direct sellers use a number of plans in selling directly to the consumer. Sale to the consumer in his/her home is only one of such plans. The limiting affect of the exemption as worded would make the administration of this proposed law very difficult for the state and direct selling companies. We urge that the exemption language in these bills be changed to conform to the federal direct seller exemption.

WATKINS INCORPORATED

by Duane R. Evans

Duane R. Evans

Vice President, Finance &

Chief Administrative Officer

Young At Heart Sales

2015 East Teller
 Anchorage, AK 99501
 907-561-1828
 907-561-1828

1000 11/1/85

Jennifer & Robert Blankenship
 201 Teller

April 14, 1995

The Honorable Pete Kott
 Chairman, House Labor and Commerce Committee
 Alaska State Legislature
 State Capitol
 Juneau, AK 99801-1182

Re: Committee Substitute House Bill 238

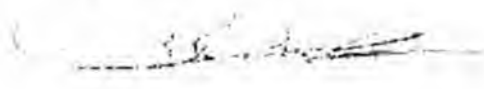
Dear Representative Kott:

I am the authorized Tupperware Distributor in the State of Alaska servicing the many independent Tupperware consultants that demonstrate and sell Tupperware® brand products throughout the state. I appreciate your efforts, as sponsor of H.B. 238, to codify the existing interpretation of Alaskan unemployment law exempting direct sellers, and am asking your support of the Committee Substitute Bill. The Committee Substitute, by referring back to the federal definition of "direct seller", (the TEFRA amendment to the Internal Revenue Service Code, Section 3508) would more completely define all direct sellers. Many direct sellers under the original language in the bill would have had difficulty or not been able to meet the definition. The Committee Substitute would correct that, but would not allow non-direct sellers to escape the requirements of the law.

The vast majority of direct sellers my distributorship services have become direct sellers in order to maintain flexible hours and earn extra income when they choose to be active. They may be active only on an intermittent basis as needed to meet their personal goals and the turnover rate in direct selling is relatively high. (The Direct Selling Association reports 100% per year.) Many states have adopted the TEFRA amendment to clearly exempt direct sellers in recognition of the nature of the business and under current interpretation of Alaskan unemployment law, direct sellers are generally ineligible for unemployment compensation. Were that to change, the core of the direct selling concept and its economic structure would be threatened as would the earnings opportunity that the industry can now provide. Passage of C.S.H.B. 238 eliminates any chance that existing law could be misapplied at a later date.

Thank you for your consideration of this.

Cordially,



Robert L. Blankenship



Tupperware

I am sending this letter to you in support of House Bill 23A

I am currently a Supervisor in the State of Alaska with House of Lloyd. A Company that is directly involved with the Home Party Programs through catalogs, and direct selling of our merchandise. There isn't alot of ways a stay at home mom can be there for here children and still have a little something on the side to use to make extra income and socialize with others. If Senate Bill 122 goes through, a lot of stay at home moms will be out of business.



DISTRICT MANAGER

4/18/95

To:

Rep. Pete Koch
Rep. Al Vezey
Rep. Bill Phillips
Rep. Jerry Machie

Please note that I am in the Direct Selling business in Anchorage, Alaska and I need your support for HB 238.

My job as District Manager for Christmas Around the World and House of Lloyd is to hire Supervisors & Demonstrators and teach them how to conduct home parties which is direct sales.

We have in the past sold upto \$350,000. per year, which provides Commission-income to many people who live in this state.

Again - Please Support HB 238!

Thank-you,
Bobbie Clark
District Manager
907-243-6222

3351 Orion Cir.
Anch. AK. 99517



HOUSE OF LLOYD®

SAUL KASS
Vice President of Finance

March 29, 1995

FAX TO: Representative Pete Kott
Chairperson
House Labor and Commerce Committee

RE: H.B. 238 and S.B. 122

Dear Representative:

It is my understanding that S.B. 122 passed out of the Senate Judiciary Committee and has been referred to the Senate Rules Committee. I also understand that the House bill will be heard in the State Affairs Committee on March 28.

Our company presently does business in Alaska and is pleased with the growth we are achieving. We do not keep an inventory nor do we have any other assets or employees in the state of Alaska. We operate through independent business persons. These people are not under our control. They choose their own working hours and do not have to make an investment in order to start selling. The majority of these independent business persons have full time jobs and only sell part time. Their purpose for being an independent business person is to earn additional money to take care of an emergency illness, a youngster going to college, or to buy Christmas gifts and so forth. The independent business person conducts sales, not only in an individual's home, but also has catalog parties which are held at offices of the independent business person who represent direct sellers, such as ours, without being able to take advantage of the proposed direct seller exemption that is currently in the bills.

It is our hope that you will put into the bill the exemption granted to the direct selling industry by TEFRA.

Thank you indeed for your cooperation and please let me know if you would like to have any questions answered.

Sincerely,

Saul D. Kass
Vice President/Finance

SDK/iw



HOUSE OF LLOYD®

SAUL KASS
VICE PRESIDENT OF FINANCE

March 29, 1995

FAX TO: Representative Gene Kubina
House Labor and Commerce Committee

RE: H.B. 238 and S.B. 122

Dear Representative:

It is my understanding that S.B. 122 passed out of the Senate Judiciary Committee and has been referred to the Senate Rules Committee. I also understand that the House bill will be heard in the State Affairs Committee on March 28.

Our company presently does business in Alaska and is pleased with the growth we are achieving. We do not keep an inventory nor do we have any other assets or employees in the state of Alaska. We operate through independent business persons. These people are not under our control. They choose their own working hours and do not have to make an investment in order to start selling. The majority of these independent business persons have full time jobs and only sell part time. Their purpose for being an independent business person is to earn additional money to take care of an emergency illness, a youngster going to college, or to buy Christmas gifts and so forth. The independent business person conducts sales, not only in an individual's home, but also has catalog parties which are held at offices of the independent business person who represent direct sellers, such as ours, without being able to take advantage of the proposed direct seller exemption that is currently in the bills.

It is our hope that you will put into the bill the exemption granted to the direct selling industry by TEFRA.

Thank you indeed for your cooperation and please let me know if you would like to have any questions answered.

Sincerely,

Saul D. Kass
Vice President/Finance

SJK/rw

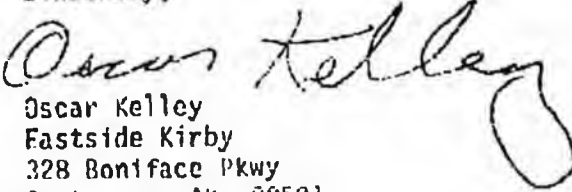
March 16, 1995

Representative Pete Kott
State Capitol Building
Juneau, AK 99801

Dear Rep. Kott:

Please support the Bill to exclude Direct Sellers from
State Unemployment Compensation laws. Thank you.

Sincerely,


Oscar Kelley
Eastside Kirby
328 Boniface Pkwy
Anchorage, AK 99504



In Harmony With You and Nature

11431 B Ferrell
Dallas, TX 75234
(214) 831-1033
Fax (214) 331-9030

10 April 1995

Representative Pete Kott
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Via Fax No.: 907/485-2819

Re: House Bill 238

Dear Representative Kott:

AdvoCare is a direct selling company headquartered in Dallas, Texas, with a network of distributors nationwide. As such, we are keenly interested in legislation which serves to support and strengthen the status of the independent contractor as a small business owner. The above referenced bill is one which recognizes this fact.

We understand H.B. 238 will go up against Senate Bill 122 in the very near future. As currently worded, S.B. 122 does not acknowledge the unique circumstance of the direct seller. We, therefore, wish to voice our strong support for H.B. 238 and ask that you endorse it.

Your consideration of this legislation is extremely important to your constituents whose livelihoods are built on the premise of free enterprise, and we appreciate your attention given to this bill.

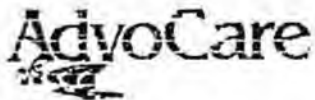
Very truly yours,

Ruth Ann Box

Ruth Ann Box
General Counsel

/bls





in harmony with you and nature

11431 P. Ferrell
Dallas, TX 75224
(214) 831-1033
Fax (214) 831-8830

27 March 1995

Representative Pete Kott
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Via Fax No.: 907/465-2819

Re: Alaska H.B. 238 and S.B. 122 (Exemption language)

Dear Representative Kott:

AdvoCare is a direct selling company based in Dallas, Texas, with thousands of independent contractors nationwide. Consequently, we are very interested in working to ensure the rights of our contractors are not unduly jeopardized by proposed legislation in which the verbiage can be misinterpreted or which contain unnecessary restrictions. Such is the case in the above noted bill, which will be heard on March 28 in Juneau.

To be specific, phrasing as is currently written in this bill would limit sales transactions such that they could take place only with the direct seller in the customer's home, and only to that customer. In actuality, direct selling occurs in many settings and between many people. Often, there are "home parties" to which a customer invites friends, and a direct seller presents the products (such as Tupperware or Mary Kay) to all in attendance. Or, sales might happen between co-workers in the workplace when one of them is an independent contractor. Perhaps someone visiting the direct seller in the seller's home would make an inquiry and subsequent purchase.

We understand that the federal government has in place an exemption so worded as to benefit both the public and the direct seller, *without* detracting from the primary purpose of your proposed bill. We would ask that you consider including this standard exemption language in the bill.

Respectfully,

Ruth Ann Box

Ruth Ann Box
General Counsel

/s/



Kirby Sales & Service

840 College Road
Fairbanks, Alaska 99701

Tel: (907) 452-2101
Fax: (907) 456-6767

March 16, 1995

Representative Pete Kott
State Capitol Building
Juneau, AK 99801

Dear Rep. Kott:

I urge your support in the passage of the attached
Bill (HB#238). Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Mel Honey".

Mel Honey
Money & Associates
340 College Rd.
Fairbanks, AK 99701

mm
enclosure

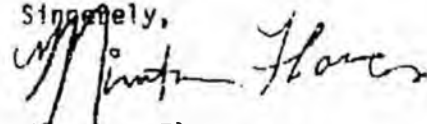
March 16, 1995

Representative Pete Kott
State Capitol Building
Juneau, AK 99801

Dear Rep. Kott:

Please support the Bill to exclude Direct Sellers from
State Unemployment Compensation laws. Thank you.

Sincerely,



Myrta B. Flores
CMBT Kirby
4900 Palmer/Wasilla Hwy #1A
Wasilla, AK 99654



Kirby Sales & Service

7550 Old Seward Hwy.
Anchorage, AK 99518

TEL: (907) 344-4545
FAX: (907) 344-7525

March 9, 1995

Representative Pete Kott
State Capitol Building
Juneau, AK 99801

Dear Representative Kott:

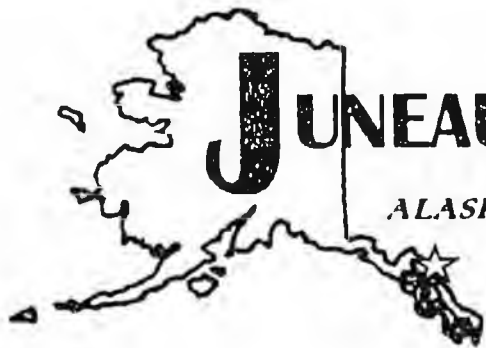
We urge your support in the passage of the attached
Bill (HB 4238). Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Cross", written over a horizontal line.

James R. Cross
Factory Distributor
Kirby Sales & Service
Anchorage, AK

JRC/tjt
enclosure



JUNEAU CHAMBER OF COMMERCE

ALASKA'S CAPITAL CITY

March 12, 1995

Dear Representative Kott:

This letter represents our testimony in support of excluding direct sellers of consumer products from coverage under the state unemployment compensation laws.

The Juneau Chamber of Commerce believes that direct sellers are, in essence, individual small business owners. They work on a commission basis, set their own business routine, and pay their own expenses.

Successful direct sellers may move from product to product but they are only unemployed if they choose not to work. Unsuccessful direct sellers do not last in this type of work because they make no money.

With the Department of Labor having signed off on this legislation, this bill should be viewed as a useful piece of housekeeping.

Sincerely,

Chuck Achberger
Director

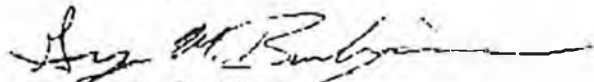
March 16, 1995

Representative Pete Kott
State Capitol Building
Juneau, AK 99801

Dear Rep. Kott:

Please support the Bill to exclude Direct Sellers from
State Unemployment Compensation laws. Thank you

Sincerely,



George M. Burlingame
6631 Zurich St., 44
Anchorage, AK 99507

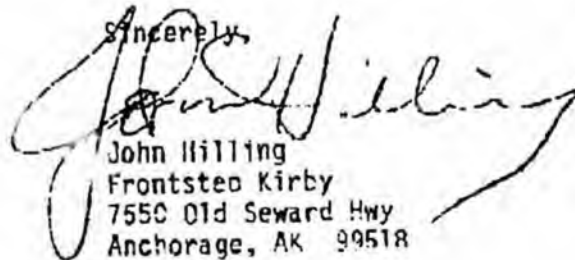
March 16, 1995

Representative Pete Kott
State Capitol Building
Juneau, AK 99801

Dear Rep. Kott:

I urge your support in the passage of the attached
Bill (HR#238). Thank you.

Sincerely,



John Hilling
Frontstep Kirby
7550 Old Seward Hwy
Anchorage, AK 99518

JH
enclosure

Shaklee Corporation

SHAKLEE CORPORATION 444 Market Street
SAN FRANCISCO, CA 94111
Telephone 415/954-2015
FAX 415/954-2155

Evelyn Jarvis-Ferris
Vice-President
Government Relations

MEMORANDUM

TO: Members of the House Labor and Commerce Committee

FROM: Evelyn Jarvis-Ferris *Evelyn Jarvis-Ferris*

DATE: April 7, 1995

RE: Support for House Committee Substitute Bill 238

Shaklee Corporation and its Alaska Distributors support House Committee Substitute Bill 238, which was recently passed by the State Affairs Committee and is pending in the Labor and Commerce Committee. Shaklee is a direct selling company and a major manufacturer of nutritional, personal care and household products that are sold through small business, independent contractors working primarily out of their homes.

The amendment adopted by the State Affairs Committee, which would incorporate the federal definition of a direct seller, is a critical one for our company and our industry. Unlike the original language in H.B. 238, which could exclude many direct sellers such as our Shaklee Distributors in Alaska, the committee substitute more clearly and correctly defines who is a direct seller. This language is not only consistent with federal statute but also with a number of other states who have also adopted it.

We are pleased that the Legislature is considering clarifying the status of direct sellers as it relates to unemployment compensation, however, it is imperative that this version is the one that is adopted to adequately cover all the direct sellers, and not just a few, who live and work in Alaska.

John T. Logan
Certified Public Accountant

2245 North Jordan Avenue
Fairbanks, Alaska 99801
(907) 789-5601

March 17, 1995

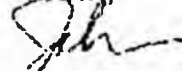
Dear Representative Kott:

This letter represents my testimony regarding current pending legislation regarding direct sellers being exempt from coverage under State of Alaska Unemployment laws.

Direct sellers do not meet the criteria for being employees under the Internal Revenue Code (IRC). These criteria include such tests as control, investment, location, and nature of work. These workers are independent contractors, not employees. Therefore, they should have the same advantages and disadvantages in the marketplace as do other self-employed individuals. In other words, those who sell products to these direct sellers should not have to cover their buyers for unemployment purposes.

I respectfully request that this legislation be expeditiously approved and implemented.

Sincerely,


John T. Logan, CPA

1037 Stinson Drive, Suite 100, Anchorage, Alaska 99503
March 24, 1995

LEGISLATIVE COUNSEL, THE PRESIDENTIAL AFFAIRS

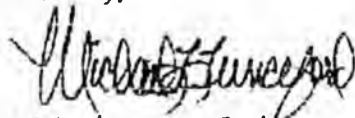
The Honorable Pete Kott
Senate Judiciary Committee
Alaska State Legislature
Juneau, AK 99801-1182

Dear Senator Kott:

On behalf of Mary Kay Cosmetics, I wish to express our opinion about Senate Bill 122, a bill dealing with direct sellers such as Mary Kay Independent Beauty Consultants, and unemployment compensation. Joe Mariano of our trade association, Direct Selling Association, attended the hearing on the bill March 22 and had signed up to testify; unfortunately, the bill was passed and the hearing ended before any witnesses (other than the sponsor's staff) were called. Needless to say, we are disappointed he was unable to share observations with you and the rest of the committee. I believe the observations are relevant and hope you will embrace them prior to your deliberations on the Senate floor.

Mary Kay agrees in principal with the intent of SB 122 to clarify that direct sellers are not currently covered by Alaska's unemployment compensation law, we are concerned that the legislation would do so in a manner inconsistent with federal and other state laws. We hope to offer amendments which will make Alaska's law consistent with the other narrowly crafted laws which define direct sellers; we believe such consistency is vital for direct sellers and the administrators of the law. Without amendment, the bill does not accurately define all direct sellers and presents the undesirable possibility that Mary Kay Independent Beauty Consultants would not be able to qualify under its provisions. We trust this serious flaw can be simply remedied by referral to the existing definition of direct seller used in the federal Internal Revenue Code. We hope to do so with the agreement of all interested parties. Federal language has been in place since 1982 and has proven to be an effective, limited definition for federal tax purposes. Only true direct sellers such as Avon Representatives, Amway Distributors, Kirby salespeople, Mary Kay Beauty Consultants, etc. have qualified under this federal definition. We feel supremely confident that reference to or incorporation of this language into Alaska's law will be the simplest, most limited and effective manner of clarifying direct sellers' status under the law. Absent such an amendment, we and other direct selling companies ultimately must oppose SB 122. On behalf of the thousands of Mary Kay Beauty Consultants in Alaska, I thank you for your consideration of our concerns.

Sincerely,



Michael L. Lunceford
Vice President
MARY KAY CORPORATION



THE
LONGABERGER
COMPANY

George

RECEIVED
APR -4 1995

MISS U.....

March 26, 1995

The Honorable Pete Kott
Alaska House of Representatives
State Capitol
Juneau, AK 99801-1182

Dear Representative Kott:

It is my understanding that the Alaska legislature is considering two bills dealing with unemployment compensation which creates ambiguous language for thousands of direct sellers in your state.

Specifically, the legislation currently pending in both houses are Senate Bill 122 and House Bill 238. I respectfully request your consideration of an amendment which would conform Alaskan law with the federal direct seller exemption used in several other states throughout the nation.

It is my view that by adopting the federal TEFRA language, Alaska would simplify the treatment of direct sellers in the area of unemployment compensation. As I read the legislation as currently drafted, direct sales which occur outside the consumer's home would not be exempt from these provisions. While the overwhelming majority of direct sales does occur in a home setting, they do not necessarily occur in the home of the consumer. This is an important distinction because many occur in an office setting or the home of a person hosting a party or demonstration. This confusion would hurt current direct sellers and other individuals considering the direct selling opportunity. By adopting the federal TEFRA exemption, these problems would be solved and Alaska would join several other states in the nation to statutorily define direct sellers as independent contractors.

The Longaberger Company is a national direct selling company with nearly 100 independent sales associates in Alaska marketing hand-crafted baskets, pottery and decorative accessories through in-home demonstrations or "shows." Typically, Longaberger sales associates view their Longaberger business as an ideal part-time opportunity to supplement an increasingly tight family budget or earn extra income for a specific goal like a child's education.

Thank you very much for considering our views regarding this legislation. Again, I respectfully request your favorable consideration of an amendment to adopt the federal TEFRA exemption for direct sellers in the Alaskan unemployment compensation law. Please do not hesitate to contact me should you have any questions or if I can be of assistance in any way.

Sincerely

Michael L. Bennett
Vice President of Corporate Affairs

THE PAMPERED CHEF®

Doris K. Christopher • President

350 South Route 23 • Addison, IL 60101-3079 • 708/261-8900 • Fax 708/261-8585

March 27, 1995

House Labor & Commerce Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Representative,

I write to you on behalf of The Pampered Chef, a direct selling company, regarding Alaska HB 238, dealing with Unemployment Compensation. We belong to the Direct Selling Association (DSA) which is the national trade association which represents companies that sell their products through personal explanation and demonstration in the home by independent contractors. The Pampered Chef is an Illinois based company which sells kitchen tools through home parties in all 50 states. Other members of DSA typified by companies such as Avon Products, Amway Corp. and Mary Kay Cosmetics sell through tens of thousands of independent contractors.

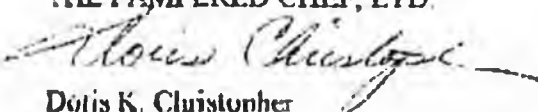
We are fearful that the present draft of this bill would fall harshly on direct selling companies. It is our position that an Alaskan direct seller exemption should conform to the exemption language adopted by the federal government and dozens of other states.

In addition, the language of the current bill could be harmful by creating a definition of direct selling under Alaska law that is different from that which exists under any other jurisdiction. The language which currently exists is not helpful to Alaskan direct sellers who engage in a variety of selling methods. Not all direct sales occur at the consumer's home; they could take place at the direct seller's home, someone else's home, or an office. For example, The Pampered Chef's independent contractors put on selling presentations at home parties held by one hostess with his/her invited guests. Most Alaskan direct sellers would not be able to take advantage of the proposed direct seller exemption currently present in the bill.

We are opposed to the current bill and request that it be redrafted to adopt federal exemption language only so as not to be harmful to the direct selling industry in Alaska. We urge you to support our concerns.

Sincerely,

THE PAMPERED CHEF, LTD.


Doris K. Christopher
President

DKC/db

The Kitchen Store That Comes to Your Door®



HOUSE OF LLOYD™

SAUL KASS
VICE PRESIDENT OF FINANCE

March 29, 1995

FAX TO: Representative Pete Kott

RE: H.B. 236 and S.B. 122

Dear Representative:

It is my understanding that S.B. 122 passed out of the Senate Judiciary Committee and has been referred to the Senate Rules Committee. I also understand that the House bill will be heard in the State Affairs Committee on March 28.

Our company presently does business in Alaska and is pleased with the growth we are achieving. We do not keep an inventory nor do we have any other assets or employees in the state of Alaska. We operate through independent business persons. These people are not under our control. They choose their own working hours and do not have to make an investment in order to start selling. The majority of these independent business persons have full time jobs and only sell part time. Their purpose for being an independent business person is to earn additional money to take care of an emergency illness, a youngster going to college, or to buy Christmas gifts and so forth. The independent business person conducts sales, not only in an individual's home, but also has catalog parties which are held at offices of the independent business person who represent direct sellers, such as ours, without being able to take advantage of the proposed direct seller exemption that is currently in the bills.

It is our hope that you will put into the bill the exemption granted to the direct selling industry by TEFRA.

Thank you indeed for your cooperation and please let me know if you would like to have any questions answered.

Sincerely,

Saul D. Kass
Vice President/Finance

SDK/iw

Home Interiors & Gifts

"The Total Hostess Service Plan Company"



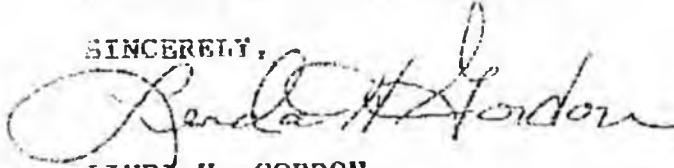
APRIL 10, 1995

DEAR REPRESENTATIVE:

AS AN INDEPENDENT SALES PERSON AND PROPRIATOR OF A COMPANY WITH OVER FIFTY INDEPENDENT CONTRACTORS, I FEEL IT IS VITAL THAT A CLEAR EXEMPTION APPLICABLE TO ALL DIRECT SELLERS BE ADOPTED.

I STRONGLY SUPPORT HB 238.

SINCERELY,



LINDA H. GORDON
PRES. HOME INTERIORS OF AK.
5406 LAKE OTIS PARKWAY
ANCHORAGE, ALASKA
907-561-0204
FAX 907 563-5828

March 17, 1995

Rep. Pete Kott
State Capitol Building
Juneau, AK 99801

Dear Rep. Kott:

Please support the Bill to exclude Direct Sellers from
State Unemployment Compensation laws. Thank you.

Sincerely,

Roberta Morgan

Roberta Morgan
2400 Tasha Dr.
Anchorage, AK 99502

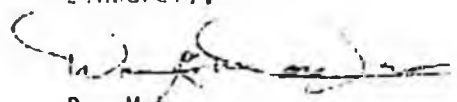
March 16, 1995

Rep. Pete Kott
State Capital Building
Juneau, AK 99801

Dear Rep. Kott:

I urge your support in the passage of the attached
bill (HB#238). Thank you.

Sincerely,



Dan Morgan
Three Sisters
2400 Tasha Dr.
Anchorage, AK 99502

dm:
enclosure

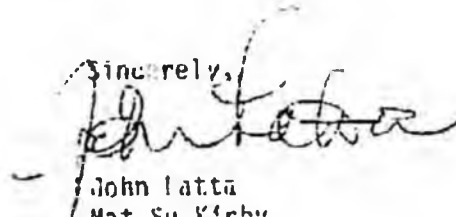
March 16, 1995

Representative Pete Kott
State Capitol Building
Juneau, AK 99801

Dear Representative Kott:

Please support the Bill to exclude Direct Sellers from
State Unemployment Compensation laws. Thank you.

Sincerely,



John Latta
Mat-Su Kirby
P.O. Box 972143
Wasilla, AK 99687-2143

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 6, 1995

FURTHER REFERRALS:

Date of Committee Action: 4/24/95

The LABOR AND COMMERCE Committee considered:

HB 238

HOUSE BILL NO. 238

NO UNEMPLOYMENT COMP FOR DIRECT SELLERS

"An Act excluding certain direct sellers of consumer products from coverage under the state unemployment compensation laws."

recommends it be replaced with the following committee substitute L + C VERSION K 4/20/95 the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) LABOR

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>				<input checked="" type="checkbox"/>
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE *[Signature]*

CS FOR HOUSE BILL NO. 238(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 **"An Act excluding certain direct sellers of consumer products from coverage**
2 **under the state unemployment compensation laws."**

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

4 *** Section 1. AS 23.20.526(a) is amended by adding a new paragraph to read:**
5 **(21) service of an individual who is a direct seller as defined by 26**
6 **U.S.C. 3508 (Internal Revenue Code), as amended.**

SHAKLEE CORPORATION

Shaklee Telex
444 Market Street
San Francisco, CA 94111
Tel: (415) 954-1000
Fax: (415) 954-2155

FACSIMILE TRANSMITTAL

TO: Representative Pete Kott
Alaska Legislature

FROM: Evelyn Jarvis-Ferris
Vice President, Government Relations
SHAKLEE CORPORATION

DATE: March 24, 1995

RE: House Bill 238

Number of Pages being sent (including cover sheet): 3

If you have any problems receiving this transmittal, contact Jenifer at 415-954-2132

Shaklee Corporation

Shaklee Offices 444 Market Street
San Francisco, CA 94111
Telephone 415 954-2910
FAX 415 954-2155

Evelyn Jarvis-Ferris

Vice-President
Government Relations

March 24, 1995

The Honorable Pete Kott
Alaska Legislative Building
State Capitol
Juneau, Alaska 99801

RE: House Bill 238

Dear Representative Kott:

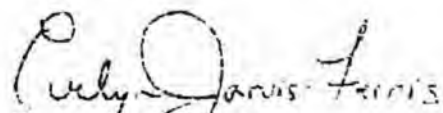
I am writing to express our concern with House Bill 238 dealing with direct sellers and unemployment compensation which has been referred to the Committees on Labor and Commerce and State Affairs. Shaklee, as you may know, is a direct selling company and a major manufacturer of nutritional personal care and household products that are sold through small business people working primarily out of their homes. As members of the Direct Selling Association (DSA), we support the attached amendment that they have offered which is consistent with federal and other state laws in clearly defining who direct sellers are.

Unfortunately, the language in H.B. 238 does not accurately define all direct sellers and therefore is incomplete and problematic. The amendment that we are suggesting was carefully crafted and incorporated into the Internal Revenue Code (26 U.S.C. Section 3508) in 1982 and has worked well in narrowly and clearly defining direct sellers. Since then, many other states, including California, have incorporated this same definition into state law.

Although we are pleased that the Legislature is considering clarifying the status of direct sellers as it relates to unemployment compensation, it is imperative that the definition be consistent with the attached language in order to cover our Shaklee Distributors and other direct sellers who live and work in your state.

I urge your support for this important amendment and thank you for your consideration.

Sincerely,



Evelyn Jarvis-Ferris
Vice President, Government Relations

DSA Suggested Amendment to Alaska's Labor and Workers' Compensation Law**Alternative #1**

Section 23.20.526(a) is amended by adding a new paragraph to read:

(21) service by a direct sellers if

(A) Such person is:

(i) engaged in the trade or business of selling (or soliciting the sale of) consumer products, services or other intangibles to any buyer on a buy-sell basis or a deposit-commission basis for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, or (ii) is engaged in the trade or business of selling (or soliciting the sale of) consumer products, services or other intangibles in the home or otherwise than in a permanent retail establishment,

(B) substantially all the remuneration (whether or not paid in cash) for the performance of the services described in subparagraph (21)(A) is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

(C) the services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee for federal and state tax purposes.

DSA Suggested Amendment to Alaska's Labor and Workers' Compensation Law**Alternative #2**

Section 23.20.526(a) is amended by adding a new paragraph to read:

(21) services by a direct sellers as defined by 28 U.S.C. Section 3508.

March 27, 1995



The Honorable Pete Kott
Chair, House Labor and Commerce Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

VIA FACSIMILE

RE: Alaska SB 122

Dear Representative Kott:

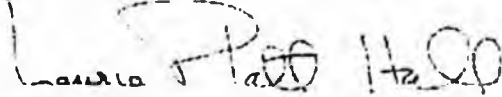
I write on behalf of Tupperware regarding Senate Bill 122, a bill dealing with direct sellers and unemployment compensation. It is unfortunate that the bill was passed and the hearing ended before any witnesses (other than the sponsor's staff) were called as Joe Manano of the Direct Selling Association (DSA) was present and signed up to testify. The DSA is the national trade association that represents Tupperware and other companies which market their products through personal demonstration, primarily though not exclusively, in the home. The 150 corporate members represent almost 6 million people nationally who sell for them as independent contractors.

While we agree in principal with the intent of SB 122 to clarify that direct sellers are not currently covered by Alaska's unemployment compensation law, we are concerned that the legislation would do so in a manner inconsistent with Federal and other state laws. We hope to offer amendments which will make Alaska's law consistent with the other narrow laws which define direct sellers, as we believe such consistency is vital for direct sellers and the administrators of the law. Without amendment, the current draft of the bill does not accurately define all direct sellers and presents the undesirable possibility that some well known direct sellers would not be able to qualify under its provisions. We trust this serious flaw can be simply remedied by referral to the existing definition of "direct seller" used in the federal Internal Revenue Code. We hope to do so with the agreement of all interested parties. Federal language has been in place since 1982 and has proven to be an effective, limited definition for federal tax purposes. Only true direct sellers (Avon Representatives, Amway Distributors, Kirby salespeople, Mary Kay Beauty Consultants, etc. . .) have qualified under this Federal definition. We believe the reference to or incorporation of this language into Alaska's law will be the

Alaska SB 122
March 24, 1995
Page two

simplest, most limited and effective manner of clarifying direct sellers' status under the law. In the absence of such an amendment, we oppose ultimate passage of SB 122. On behalf of the thousands of Alaskan direct sellers. I thank you for your consideration of our concerns.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lawrie Platt Hall". The signature is written in a cursive, somewhat stylized font.

Lawrie Platt Hall
Director, External Affairs

cc: Joe Manano (Direct Selling Association)



Amway Corporation, 7575 Fullon Street East, Ada, Michigan 49355-0001
Legal Division

March 21, 1995

The Honorable Pete Kott
House of Representatives
Capitol Building
Juneau, AK 99801-1182

Subject: House Bill 238 / Direct Sellers

Dear Representative Kott:

I understand House Bill 238, a bill under your sponsorship proposing to exempt direct sellers from coverage under the state unemployment compensation law, may soon be heard in the House State Affairs Committee. While Amway certainly understands the intent of the legislation, we must express our opposition to the bill **in its current form** on behalf of our many independent Alaska distributors.

By way of brief background, Amway Corporation is a manufacturer and distributor of a wide variety of home care and personal care products sold by thousands of independent distributors throughout the country. Alaska Amway distributors sell products to family, friends and neighbors, while interesting others to do the same, in an effort to supplement their family incomes. Amway distributors currently operate in all 50 states as well as over 60 countries and territories. Certainly, Amway is concerned about legislation which could inadvertently impact these very small businesses.

Direct sellers such as Amway distributors are not employees of Amway Corporation but are instead independent contractors. They decide for themselves the hours during which they wish to pursue their opportunity and the amount of effort they wish to expend. They determine the prices at which they sell their products, are responsible for the business expenses they incur, they keep their own records and accounts, bear the risk of loss, and keep for themselves the fruits of their enterprise. They are truly independent business persons and their status as independent contractors is not disputed.

While HB 238 proposes to specifically exempt direct sellers from the state unemployment compensation law, unfortunately the bill's language is flawed. The language should track existing law in some 25 states which directly follow the federal language enacted in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). This language is time-tested and ensures that legitimate direct sellers are indeed exempted from coverage under the state employment laws.

March 21, 1995

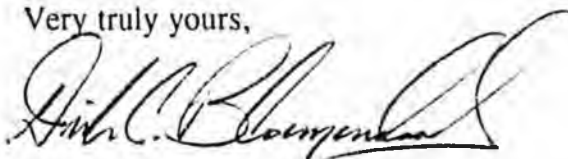
Page 2

HB 238's language, on the other hand, is limited to sales made at a prospective customer's home and does not cover sales made at either the direct seller's home or at any other location. However, Amway distributors, and many other direct sellers, may demonstrate, explain and sell their products at their own homes and other locations, including businesses, public halls, schools, churches and the like. It is unwise to limit the language to the customer's home; a direct seller's status should not depend upon where he or she makes a sale, it should instead key on the activity itself.

Second, HB 238's definition of "compensation" is unnecessarily specific. Amway distributors may earn money not only on their basic discount when products are bought and sold, but may also earn money through earning performance bonuses. These performance bonuses are based not only on one's own sales, but also on those of the distributor's downlines. However, HB 238's language deviates from the accepted language and could be narrowly interpreted to be limited to a distributor's own sales. Consequently, while the status of direct sellers such as Amway distributors is certainly not in dispute, we are concerned that a distributor's normal activity which falls outside the language of HB 238 could inadvertently subject them to state unemployment compensation law.

Therefore, Amway respectfully urges you to hold HB 238 so that these differences can be resolved. I understand Joe Mariano of the Direct Selling Association will be in Juneau for the committee hearings and can answer any questions you may have. In the meantime, if you wish to contact me directly, please call me at (616) 676-7010 or by fax at (616) 676-5624. Thank you for your attention to our concerns.

Very truly yours,



Dirk C. Bloemendaal, Counsel
Corporate Government Affairs

Attachment (TEFRA language)

cc: Members of the House State Affairs Committee
Joe Mariano, DSA

TEFRA LANGUAGE

§ 3508. Treatment of real estate agents and direct sellers

(a) **General rule.**—For purposes of this title, in the case of services performed as a qualified real estate agent or as a direct seller—

- (1) the individual performing such services shall not be treated as an employee, and
- (2) the person for whom such services are performed shall not be treated as an employer.

(b) **Definitions.**—For purposes of this section—

(1) **Qualified real estate agent.**—The term “qualified real estate agent” means any individual who is a sales person if—

- (A) such individual is a licensed real estate agent,
- (B) substantially all of the remuneration (whether or not paid in cash) for the services performed by such individual as a real estate agent is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and
- (C) the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be

26 § 3508

EMPLOYMENT TAXES Subtitle C

treated as an employee with respect to such services for Federal tax purposes.

(2) **Direct seller.**—The term “direct seller” means any person if—

(A) such person—

(i) is engaged in the trade or business of selling (or soliciting the sale of) consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, or

(ii) is engaged in the trade or business of selling (or soliciting the sale of) consumer products in the home or otherwise than in a permanent retail establishment.

(B) substantially all the remuneration (whether or not paid in cash) for the performance of the services described in subparagraph (A) is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

(C) the services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such services for Federal tax purposes.

(3) **Coordination with retirement plans for self-employed.**—This section shall not apply for purposes of subtitle A to the extent that the individual is treated as an employee under section 401(c)(1) (relating to self-employed individuals).

(Added Pub. L. 97-248, Title II, § 269(a), Sept. 3, 1982, 96 Stat. 551.)

Alaska State Legislature

Fax-465-2811

Please enter into the record my testimony to the House Labor & Commercecommittee on HB 238 (committee name)dated 4/12/95
bill/subject

My NAME is Chuck DUNCAN - an independent Kirby salesman. I'm in favor of an act excluding direct sellers of consumer products ^{services} from unemployment compensation providing the seller performs under contract with the person or company for whom the products or services are offered & that the contract specifically states the wholesale cost to the seller & furthermore the contract specifically states there will be no restrictions on the seller except as provided by law including selling price to consumer - hours to be worked - ^{NO} sales quotas to be met - all meetings to be compulsory and no restrictions on areas in which the seller may work except as provided by law.

I believe in order for the seller to truly be self employed