

# CHAPTER 552A

## BUYING CLUB MEMBERSHIPS

Referred to in §669.14

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### 552A.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Buying club*” means a corporation, partnership, unincorporated association, or other business enterprise which sells or offers for sale to the public generally memberships or certificates of membership.
2. “*Contract*” means the agreement by which a person acquires a membership in a buying club.
3. “*Membership*” means certificates, memberships, shares, bonds, contracts, stocks, or agreements of any kind or character issued upon any plan offered generally to the public entitling the holder to purchase merchandise, materials, equipment, or service, either from the issuer or another person designated by the issuer, either under a franchise or otherwise, whether it be at a discount, at cost plus a percentage, at cost plus a fixed amount, at a fixed price, or on any other similar basis.

93 Acts, ch 60, §1

### 552A.2 Exemptions.

This chapter does not apply to any of the following:

1. Building and loan associations, state or national banks, insurance companies and associations, and mutual or cooperative telephone companies organized under chapter 491 which have been determined to be exempt from taxation under section 501(c)(12) of the Internal Revenue Code.
2. Corporations and cooperative associations subject to regulation under chapter 497, 498, or 499.
3. The sale of membership camping contracts by persons or entities registered or exempt under chapter 557B.
4. The sale of physical exercise club contracts by persons or entities registered under chapter 552.
5. Corporations, partnerships, unincorporated associations, or other business enterprises which sell or offer for sale memberships to an individual or to a family unit for consideration of no more than fifty dollars for a one-year period. Consideration for this purpose includes but is not limited to the amount of any required purchase under the terms of the contract.
6. *a.* The sale of goods or services by corporations, partnerships, unincorporated associations, or other business enterprises which sell products to direct sellers as defined by section 3508 of the Internal Revenue Code, where the initial contract establishing the relationship with the direct seller is terminable at will by either party, and where the corporation, partnership, unincorporated association, or other business enterprise offers to repurchase the products at reasonable commercial terms.
- b.* For purposes of this subsection, “*reasonable commercial terms*” includes the repurchase of all unencumbered products which are in an unused, commercially resalable condition within one year from the direct seller’s date of purchase. The repurchase shall be at a price not less than ninety percent of the original net cost to the direct seller of the products being returned. “*Original net cost*” means the amount actually paid by the direct seller for the products, less any consideration received by the direct seller for the purchase of the products being returned. Products which are no longer marketed by a program shall be deemed resalable if the products are otherwise in an unused, commercially resalable condition and are returned to the seller within one year from the direct seller’s date of

purchase, provided, however, that products which are no longer marketed by a program shall not be deemed resalable if the products are sold to direct sellers as nonreturnable, discontinued, seasonal, or special promotion items and the nonreturnable nature of the product was clearly disclosed to the direct seller prior to purchase.

93 Acts, ch 60, §2; 2012 Acts, ch 1023, §157

Referred to in §557B.14

[T] Code editor directive applied

### **552A.3 Right of cancellation — requirement of writing.**

The requirements of sections 555A.1 through 555A.5, relating to door-to-door sales, shall apply to sales of buying club memberships, irrespective of the place or manner of sale or the purpose for which they are purchased. In addition to the requirements of chapter 555A, a contract shall not be enforceable against a person acquiring a membership in a buying club unless the contract is in writing and signed by the purchaser.

93 Acts, ch 60, §3

### **552A.4 Limitation on membership period.**

A contract shall not be valid for a term longer than eighteen months from the date on which the contract is signed. However, a buying club may allow a member to convert the contract into a contract for a period longer than eighteen months after the member has been a member of the club for at least one year. The duration of the contract shall be clearly and conspicuously disclosed in the contract in boldface type of a minimum size of fourteen points.

93 Acts, ch 60, §4

### **552A.5 Remedies.**

1. A violation of this chapter is a violation of section 714.16, subsection 2, paragraph “a”.
2. The rights, obligations, and remedies provided in this chapter shall be in addition to any other rights, obligations, or remedies provided by law or in equity.
3. In addition to the remedies otherwise provided by law, any person injured by a violation of this chapter may bring a civil action and recover damages, together with costs, including reasonable attorney’s fees, and receive other equitable relief as determined by the court.

93 Acts, ch 60, §5