

Jager, Ch
Barry
Holveck

HSB 5

JUDICIARY
Succeeded
SF/HF 210

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON LARSON)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1. An Act relating to the exclusion of certain transactions under
2 the business opportunities law and providing effective and
3 retroactive applicability dates.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 523B.1, subsection 3, Code 1999, is
2 amended to read as follows:

3 3. a. "Business opportunity" means a contract or
4 agreement, between a seller and purchaser, express or implied,
5 orally or in writing, at an initial investment exceeding five
6 hundred dollars, where the parties agree that the seller or a
7 person recommended by the seller is to provide to the
8 purchaser any products, equipment, supplies, materials, or
9 services for the purpose of enabling the purchaser to start a
10 business, and the seller represents, directly or indirectly,
11 orally or in writing, any of the following:

12 a- (1) The seller or a person recommended by the seller
13 will provide locations or assist the purchaser in finding
14 locations for the use or operation of vending machines, racks,
15 display cases, or other similar devices, on premises which are
16 not owned or leased by the purchaser or seller.

17 b- (2) The seller or a person recommended by the seller
18 will provide or assist the purchaser in finding outlets or
19 accounts for the purchaser's products or services.

20 c- (3) The seller or a person specified by the seller will
21 purchase any or all products made, produced, fabricated,
22 grown, bred, or modified by the purchaser.

23 d- (4) The purchaser will derive income from the business
24 which exceeds the price paid to the seller.

25 e- (5) The seller will refund all or part of the price
26 paid to the seller, or repurchase any of the products,
27 equipment, or supplies provided by the seller or a person
28 recommended by the seller, if the purchaser is dissatisfied
29 with the business.

30 f- (6) The seller will provide a marketing plan.

31 b. "Business opportunity" does not include any of the
32 following:

33 (1) An offer or sale of an ongoing business operated by
34 the seller which is to be sold in its entirety.

35 (2) An offer or sale of a business opportunity to an

1 ongoing business where the seller will provide products,
2 equipment, supplies, or services which are substantially
3 similar to the products, equipment, supplies, or services sold
4 by the purchaser in connection with the purchaser's ongoing
5 business.

6 (3) An offer or sale of a business opportunity which
7 involves a marketing plan made in conjunction with the
8 licensing of a federally registered trademark or federally
9 registered service mark provided that the seller has a minimum
10 net worth of one million dollars as determined on the basis of
11 the seller's most recent audited financial statement prepared
12 within thirteen months of the first offer in this state. Net
13 worth may be determined on a consolidated basis if the seller
14 is at least eighty percent owned by one person and that person
15 expressly guarantees the obligations of the seller with regard
16 to the offer or sale of a business opportunity claimed to be
17 excluded under this subparagraph.

18 (4) An offer or sale of a business opportunity by an
19 executor, administrator, sheriff, receiver, trustee in
20 bankruptcy, guardian, or conservator, or a judicial offer or
21 sale of a business opportunity.

22 (5) The renewal or extension of a business opportunity
23 contract or agreement entered into under this chapter or prior
24 to July 1, 1981.

25 Sec. 2. Section 523B.3, subsection 1, paragraphs b, c, d,
26 and g, Code 1999, are amended by striking the paragraphs.

27 Sec. 3. EFFECTIVE AND APPLICABILITY DATES. This Act,
28 being deemed of immediate importance, takes effect upon
29 enactment and is retroactively applicable to July 1, 1998.

30 EXPLANATION

31 This bill excludes certain business transactions from the
32 definition of business opportunity under the business
33 opportunity law in Code chapter 523B. These transactions
34 include the following:

35 1. The offer or sale of an ongoing business operated by

1 the seller.

2 2. The offer or sale of a business opportunity to an
3 ongoing business where the seller provides a line of goods or
4 services to the purchaser.

5 3. The offer or sale of a business opportunity which
6 involves a marketing plan made in conjunction with the
7 licensing of a federally registered trademark or federally
8 registered service mark provided that the seller has a minimum
9 net worth of one million dollars.

10 4. The offer or sale of a business opportunity by an
11 executor, administrator, sheriff, receiver, trustee in
12 bankruptcy, guardian, or conservator, or a judicial offer or
13 sale of a business opportunity.

14 5. The renewal or extension of a business opportunity
15 contract or agreement entered into under Code chapter 523B or
16 prior to July 1, 1981.

17 A business transaction which qualifies for exclusion from
18 the definition is not subject to the extension registration
19 requirements and procedures provided in Code chapter 523B.

20 The bill takes effect upon enactment and applies
21 retroactively to July 1, 1998.

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2/10/99 Motion Rk by Waigel
2/11/99 Motion Withdrawn
S. 5/99 Judiciary
S-3/30/99 Do Pass

FEB 5 1999

Place On Calendar

HOUSE FILE 210
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 5)

(P.327) Passed House, Date 2/10/99 Passed Senate, Date 4/20/99
Vote: Ayes 96 Nays 0 Vote: Ayes 49 Nays 0
Approved April 29, 1999

(P.1206)

A BILL FOR

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HF 210

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8 purchaser any products, equipment, supplies, materials, or
9 services for the purpose of enabling the purchaser to start a
10 business, and the seller represents, directly or indirectly,
11 orally or in writing, any of the following:

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13 will provide locations or assist the purchaser in finding
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15 display cases, or other similar devices, on premises which are
16 not owned or leased by the purchaser or seller.

17 b- (2) The seller or a person recommended by the seller
18 will provide or assist the purchaser in finding outlets or
19 accounts for the purchaser's products or services.

20 c- (3) The seller or a person specified by the seller will
21 purchase any or all products made, produced, fabricated,
22 grown, bred, or modified by the purchaser.

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24 which exceeds the price paid to the seller.

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26 paid to the seller, or repurchase any of the products,
27 equipment, or supplies provided by the seller or a person
28 recommended by the seller, if the purchaser is dissatisfied
29 with the business.

30 f- (6) The seller will provide a marketing plan.

31 b. "Business opportunity" does not include any of the
32 following:

33 (1) An offer or sale of an ongoing business operated by
34 the seller which is to be sold in its entirety.

35 (2) An offer or sale of a business opportunity to an

1 ongoing business where the seller will provide products,
2 equipment, supplies, or services which are substantially
3 similar to the products, equipment, supplies, or services sold
4 by the purchaser in connection with the purchaser's ongoing
5 business.

6 | (3) An offer or sale of a business opportunity which
7 involves a marketing plan made in conjunction with the
8 licensing of a federally registered trademark or federally
9 registered service mark provided that the seller has a minimum
10 net worth of one million dollars as determined on the basis of
11 the seller's most recent audited financial statement prepared
12 within thirteen months of the first offer in this state. Net
13 worth may be determined on a consolidated basis if the seller
14 is at least eighty percent owned by one person and that person
15 expressly guarantees the obligations of the seller with regard
16 to the offer or sale of a business opportunity claimed to be
17 excluded under this subparagraph.

18 | (4) An offer or sale of a business opportunity by an
19 executor, administrator, sheriff, receiver, trustee in
20 bankruptcy, guardian, or conservator, or a judicial offer or
21 sale of a business opportunity.

22 | (5) The renewal or extension of a business opportunity
23 contract or agreement entered into under this chapter or prior
24 to July 1, 1981.

25 | Sec. 2. Section 523B.3, subsection 1, paragraphs b, c, d,
26 and g, Code 1999, are amended by striking the paragraphs.

27 | Sec. 3. EFFECTIVE AND APPLICABILITY DATES. This Act,
28 being deemed of immediate importance, takes effect upon
29 enactment and is retroactively applicable to July 1, 1998.

30 | EXPLANATION

31 | This bill excludes certain business transactions from the
32 definition of business opportunity under the business
33 opportunity law in Code chapter 523B. These transactions
34 include the following:

35 | 1. The offer or sale of an ongoing business operated by

1 the seller.

2 2. The offer or sale of a business opportunity to an
3 ongoing business where the seller provides a line of goods or
4 services to the purchaser.

5 3. The offer or sale of a business opportunity which
6 involves a marketing plan made in conjunction with the
7 licensing of a federally registered trademark or federally
8 registered service mark provided that the seller has a minimum
9 net worth of one million dollars.

10 4. The offer or sale of a business opportunity by an
11 executor, administrator, sheriff, receiver, trustee in
12 bankruptcy, guardian, or conservator, or a judicial offer or
13 sale of a business opportunity.

14 5. The renewal or extension of a business opportunity
15 contract or agreement entered into under Code chapter 523B or
16 prior to July 1, 1981.

17 A business transaction which qualifies for exclusion from
18 the definition is not subject to the extension registration
19 requirements and procedures provided in Code chapter 523B.

20 The bill takes effect upon enactment and applies
21 retroactively to July 1, 1998.

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AN ACT

RELATING TO THE EXCLUSION OF CERTAIN TRANSACTIONS UNDER THE BUSINESS OPPORTUNITIES LAW AND PROVIDING EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 523B.1, subsection 3, Code 1999, is amended to read as follows:

3. a. "Business opportunity" means a contract or agreement, between a seller and purchaser, express or implied, orally or in writing, at an initial investment exceeding five hundred dollars, where the parties agree that the seller or a person recommended by the seller is to provide to the purchaser any products, equipment, supplies, materials, or services for the purpose of enabling the purchaser to start a business, and the seller represents, directly or indirectly, orally or in writing, any of the following:

a- (1) The seller or a person recommended by the seller will provide locations or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases, or other similar devices, on premises which are not owned or leased by the purchaser or seller.

b- (2) The seller or a person recommended by the seller will provide or assist the purchaser in finding outlets or accounts for the purchaser's products or services.

c- (3) The seller or a person specified by the seller will purchase any or all products made, produced, fabricated, grown, bred, or modified by the purchaser.

d- (4) The purchaser will derive income from the business which exceeds the price paid to the seller.

e- (5) The seller will refund all or part of the price paid to the seller, or repurchase any of the products,

equipment, or supplies provided by the seller or a person recommended by the seller, if the purchaser is dissatisfied with the business.

f- (6) The seller will provide a marketing plan.

b. "Business opportunity" does not include any of the following:

(1) An offer or sale of an ongoing business operated by the seller which is to be sold in its entirety.

(2) An offer or sale of a business opportunity to an ongoing business where the seller will provide products, equipment, supplies, or services which are substantially similar to the products, equipment, supplies, or services sold by the purchaser in connection with the purchaser's ongoing business.

(3) An offer or sale of a business opportunity which involves a marketing plan made in conjunction with the licensing of a federally registered trademark or federally registered service mark provided that the seller has a minimum net worth of one million dollars as determined on the basis of the seller's most recent audited financial statement prepared within thirteen months of the first offer in this state. Net worth may be determined on a consolidated basis if the seller is at least eighty percent owned by one person and that person expressly guarantees the obligations of the seller with regard to the offer or sale of a business opportunity claimed to be excluded under this subparagraph.

(4) An offer or sale of a business opportunity by an executor, administrator, sheriff, receiver, trustee in bankruptcy, guardian, or conservator, or a judicial offer or sale of a business opportunity.

(5) The renewal or extension of a business opportunity contract or agreement entered into under this chapter or prior to July 1, 1981.

Sec. 2. Section 523B.3, subsection 1, paragraphs b, c, d, and g, Code 1999, are amended by striking the paragraphs.

Sec. 3. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1998.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 210, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 29, 1999

THOMAS J. VILSACK
Governor