

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1410 Session of
2002

INTRODUCED BY CORMAN, D. WHITE, ERICKSON, BRIGHTBILL, BELL,
BOSCOLA, ORIE, HOLL, HUGHES, LAVALLE, LEMMOND, MUSTO, O'PAKE,
RHOADES, TOMLINSON, WAUGH, C. WILLIAMS, LOGAN AND STACK,
APRIL 29, 2002

REFERRED TO COMMUNICATIONS AND HIGH TECHNOLOGY, APRIL 29, 2002

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for deceptive or
3 fraudulent business practices.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 4107(a)(8) and (9) of Title 18 of the
7 Pennsylvania Consolidated Statutes are amended and the
8 subsection is amended by adding a paragraph to read:

9 § 4107. Deceptive or fraudulent business practices.

10 (a) Offense defined.--A person commits an offense if, in the
11 course of business, he:

12 * * *

13 (8) makes a false or misleading material statement to
14 induce an investor to invest in a business venture. The
15 offense is complete when any false or misleading material
16 statement is communicated to an investor regardless of
17 whether any investment is made. For purposes of grading, the

1 "amount involved" is the amount or value of the investment
2 solicited or paid, whichever is greater. As used in this
3 paragraph, the following words and phrases shall mean:

4 "Amount" as used in the definition of "material statement"
5 includes currency values and comparative expressions of
6 value, including, but not limited to, percentages or
7 multiples. "Business venture" means any venture represented
8 to an investor as one where he may receive compensation
9 either from the sale of a product, from the investment of
10 other investors or from any other commercial enterprise.

11 "Compensation" means anything of value received or to be
12 received by an investor. "Invest" means to pay, give or lend
13 money, property, service or other thing of value for the
14 opportunity to receive compensation. The term also includes
15 payment for the purchase of a product. "Investment" means the
16 money, property, service or other thing of value paid or
17 given, or to be paid or given, for the opportunity to receive
18 compensation. "Investor" means any natural person,
19 partnership, corporation, limited liability company, business
20 trust, other association, government entity, estate, trust,
21 foundation or other entity solicited to invest in a business
22 venture, regardless of whether any investment is made.

23 "Material statement" means a statement about any matter which
24 could affect an investor's decision to invest in a business
25 venture, including, but not limited to, statements about:

26 (i) the existence, value, availability or
27 marketability of a product;

28 (ii) the number of former or current investors, the
29 amount of their investments or the amount of their former
30 or current compensation;

1 (iii) the available pool or number of prospective
2 investors, including those who have not yet been
3 solicited and those who already have been solicited but
4 have not yet made an investment;

5 (iv) representations of future compensation to be
6 received by investors or prospective investors; or

7 (v) the source of former, current or future
8 compensation paid or to be paid to investors or
9 prospective investors.

10 "Product" means a good, a service or other tangible or
11 intangible property of any kind; [or]

12 (9) obtains or attempts to obtain property of another by
13 false or misleading representations made through
14 communications conducted in whole or in part by telephone
15 involving the following:

16 (i) express or implied claims that the person
17 contacted has won or is about to win a prize;

18 (ii) express or implied claims that the person
19 contacted may be able to recover any losses suffered in
20 connection with a prize promotion; or

21 (iii) express or implied claims regarding the value
22 of goods or services offered in connection with a prize
23 or a prize promotion.

24 As used in this paragraph, the term "prize" means anything of
25 value offered or purportedly offered. The term "prize
26 promotion" means an oral or written express or implied
27 representation that a person has won, has been selected to
28 receive or may be eligible to receive a prize or purported
29 prize[.]; or

30 (10) makes a false or misleading statement in a privacy

1 policy, published on the Internet or otherwise distributed or
2 published, regarding the use of personal information
3 submitted by members of the public.

4 * * *

5 Section 2. This act shall take effect in 60 days.