

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 705 Session of
2003

INTRODUCED BY CORMAN, WONDERLING, C. WILLIAMS, BRIGHTBILL,
BOSCOLA, HELFRICK, KITCHEN, MUSTO, RHOADES, TOMLINSON AND
WOZNIAK, MAY 2, 2003

REFERRED TO COMMUNICATIONS AND TECHNOLOGY, MAY 2, 2003

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
18 "amount involved" is the amount or value of the investment

solicited or paid, whichever is greater. As used in this paragraph, the following words and phrases shall mean:

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

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

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

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

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

(iii) the available pool or number of prospective

investors, including those who have not yet been solicited and those who already have been solicited but have not yet made an investment;

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

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

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

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

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

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

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

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

(10) makes a false or misleading statement in a privacy policy, published on the Internet or otherwise distributed or

1 published, regarding the use of personal information
2 submitted by members of the public.

3 * * *

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