

SB 712 – Prohibition of Pyramid Promotional Schemes (Similar CS/HB 265)

This bill amends s. 849.091, F.S., deleting the 1st degree misdemeanor for “whoever shall participate in any such lottery by becoming a member of or affiliating with, any such group or organization or who shall solicit any person for membership or affiliation in any such group or organization” relating to how “pyramid sales scheme” is defined, with this definition also deleted. It then creates s. 849.0913, F.S., defining multiple terms, including “pyramid promotional scheme,” and states that “a person may not establish, promote, operate, or participate in a pyramid promotional scheme, even if such person, upon giving consideration, obtains products, goods, services, or intangible property in addition to the right to receive compensation.” It adds a **1st degree misdemeanor** for “a person who is convicted of participating in a pyramid promotional scheme” and an **unranked, 3rd degree felony (Level 1 by default)** for “a person who is convicted of establishing, promoting, or operating a pyramid promotional scheme.” Currently, a Level 1, 3rd degree felony exists under s. 849.09(1)(a)-(d), F.S. for setting up, promoting, etc. or assisting therin, conducting or advertising drawing for prizes, or disposing of property or money by means of lottery, and the now deleted “pyramid sales scheme” is considered a lottery, so a portion of those lottery offenders would now be subject to the new Level 1, 3rd degree felony. However, by creating the newly defined “pyramid promotional scheme,” certain plans or operations will be prohibited that are currently not prohibited for promoters or operators, thus potentially expanding the number of offenders, while also exempting certain plans and operations when they comply with specified regulations related to inventory, potentially reducing the number of offenders.

Per FDLE, in FY 24-25, there were no arrests, guilty/convicted charges, or adjudication withheld charges for the current 1st degree misdemeanor that is deleted under this bill. Furthermore, there were no new commitments to prison for setting up, promoting, etc. or assisting therin, conducting or advertising drawing for prizes, or disposing of property or money by means of lottery. The magnitude of the impact on the prison system is not known for the act of establishing, promoting, or operating the newly defined pyramid promotional scheme.

Per DOC, in FY 24-25, the incarceration rate for a Level 1, 3rd degree felony was 9.7%.

CONFERENCE ADOPTED ESTIMATE: Positive Insignificant

Requested by: Senate & House