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Consumer Protection: The California Seller Assisted Marketing Plan Act

[California's Seller Assisted Marketing Plan Act](#) is a powerful piece of consumer protection law that affects people who are trying to start or continue home-based businesses.

We've all seen the commercials, we've all seen the ads, we've all seen the messages posted to telephone poles that read: "Work from home!" Or, "Be your own boss!" Well, as it turns out, as those of us who have looked in to it know, there are a lot of promises made about easy money, and frankly, they never turn out to be true.

California's Seller Assisted Marketing Plan Act provides a wealth of protection for people who buy into these scams, whether they be scams to get you to purchase a number of vending machines from a company that is promising you the moon, or whether they're out there trying to dupe you into participating in a multi-level marketing scheme.

The Seller Assisted Marketing Plan Act is found in California Civil Code in section 1812.200 and thereafter. It's a very complex act with a lot of details. What that means is there are a lot of requirements for businesses that are selling these schemes to consumers. If they fail to meet those requirements we can sue them for damages and hold them accountable for misrepresentation, fraud, duplicitous conduct – you name it.

The very first section of the act provides a good understanding of the intent behind this powerful piece of consumer protection, and it reads as follows:

(a) The Legislature finds and declares that the widespread sale of seller assisted marketing plans, often connected with the sale of vending machines, racks or work-at-home paraphernalia, has created numerous problems in California for purchasers which are inimical to good business practice. Often purchasers of seller assisted marketing plans are individuals inexperienced in business matters who use their life savings to purchase the seller assisted marketing plan in the hope that they will earn enough money in addition to retirement income or salary to become or remain self-sufficient. Many purchasers are the elderly who are seeking a way to supplement their fixed incomes. The initial payment is usually in the form of a purchase of overpriced equipment or products. California purchasers have suffered substantial losses when they have failed to receive full and complete information regarding the seller assisted marketing plan, the amount of money they can reasonably expect to earn, and the previous experience of the seller assisted marketing plan seller. Seller assisted marketing plan sellers have a significant impact upon the economy and well-being of this state and its local communities. The provisions of this title relating to seller assisted marketing plans are necessary for the public welfare. (b) It is the intent of this title to provide each prospective seller assisted marketing plan purchaser with the

information necessary to make an intelligent decision regarding seller assisted marketing plans being offered; to safeguard the public against deceit and financial hardship; to insure, foster and encourage competition and fair dealing in the sale of seller assisted marketing plans by requiring adequate disclosure; to prohibit representations that tend to mislead; and to prohibit or restrict unfair contract terms. This title shall be construed liberally in order to achieve the foregoing purposes.

So what you learn from the very first provision of the act is that in California we are demanding fair contracts – full disclosure by the sellers and truthful representations when somebody is trying to sell a consumer on a seller assisted marketing plan.

And so what does the act go on to tell us? The act requires that sellers file very thorough disclosure statements and notices. The act requires that representation be truthful and prohibits a whole series of representations and activities that have a tendency to mislead. There needs to be a disclosure statement filed by the seller. There is an information sheet that has to be provided in accordance with the California law to provide, again, thorough and complete information. There are requirements of what the contract terms are when a contract is entered into for a seller assisted marketing plan and there are mandatory contract provisions. And that is just some of what the act provides.

Most importantly, however, when there is a violation of the seller assisted marketing plan act, the **purchaser has a right to bring a lawsuit** to collect all of his or her damages that have been suffered and all of his or her reasonable attorney's fees and costs, as well as punitive damages.

With this basic bit of information, I hope that if any consumers feel that they have been misleadingly brought into a seller assisted marketing plan, or that the seller of a plan has been untruthful in any way, I hope you'll take a look at the act or call a lawyer and take whatever steps necessary to remedy the wrong that's been done to you. In California, as with some other states, we have powerful laws to protect consumers against unfair, fraudulent, deceptive business conduct on the part of companies and persons. And I certainly hope that you'll avail yourself of your rights under our consumer protection law.