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DIRECT SELLING ASSOCIATION

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April 29, 2003

Don't Tax Direct Sellers Out of Business in Nevada

Direct Sellers sell their products and services by personal presentation and demonstration, primarily in the home. There are many thousands of direct sellers in Nevada; they sell products from some of the nation's most well known companies, such as Amway Corporation, Avon Products, Inc., Mary Kay Inc., The Pampered Chef and Creative Memories. The home party and person-to-person sales methods used by our companies and their independent contractor sales forces have become an integral part of the American economy. 81% of direct sellers are women. Direct sellers represent over \$26 billion in domestic sales and over \$83 billion in worldwide sales. Direct sellers are independent contractors; they frequently sell on a **part-time** basis to their neighbors, relatives and friends as a means of supplementing other income sources. The direct selling industry attracts individuals who seek job flexibility, with low startup costs and minimal work experience. Their direct selling activities are generally neither extensive nor sophisticated.

Current Nevada law has an exemption that protects direct sellers from the unnecessary burdens of having to obtain a Nevada business license and paying the business activities tax. AB 281 repeals that exemption. The bill would require direct sellers to pay \$25 to obtain a business license and pay up to a \$140 business activities tax. This requirement would devastate direct selling in Nevada.

One of the primary benefits to direct selling is the low startup cost associated with the activity. The vast majority of direct sellers sell part-time and have very modest income from their direct selling activities. Any additional startup cost on direct sellers, will discourage individuals from taking advantage of the opportunity.

Our member companies create entrepreneurs who can start a business in some cases with little or no up front cost. Passing this bill without exempting direct sellers could increase cost by double, triple, quadruple or more. If Nevada were to increase taxes as is proposed by this bill, it would dissuade a significant number of individuals from beginning the activity.

Currently, direct selling companies represent a significant source of sales tax revenue for Nevada. Direct selling companies pay millions in sales tax annually. We estimate that direct sellers pay from 10 to 14 million dollars in sales tax to Nevada. If the numbers of sales people shrink so will the sales tax revenue from our member companies. We believe it is very likely that Nevada will lose far more in revenue from sales tax than will be gained by these tax increases on direct sellers. These concerns can be addressed simply and easily by crafting a direct sellers exemption. Nevada currently recognizes the unique nature of direct selling in statute. Current Nevada law already defines direct sellers in NRS 612.144. The amendment could add a section to Chapter 364A that reads: "A person who meets the requirements in NRS 612.144 (1) (a) is exempt from the provisions of this chapter."

The Direct Selling Association (DSA) and our member companies urge all Nevada legislators to oppose any additional taxes on direct sellers. The power to tax is the power to destroy. Please don't destroy direct selling in Nevada. Additional taxation on direct sellers could be devastating.

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ASSEMBLY COMMITTEE ON TAXATION ^{2 pages}
DATE: 04/29/03 ROOM: 4100 EXHIBIT E
SUBMITTED BY: John Webb



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Proposed Amendment to SB 238 and AB 281 to protect direct sellers from the business license fee and the tax on conducting business in Nevada.

The exemption is based on current Nevada Law that already defines direct sellers in NRS 612.144. The amendment could add a section to the chapter that reads:

“A person who meets the requirements of NRS 612.144 (1) (a) is exempt from the provisions of this chapter.”

NRS 612.144 “Employment”: Services performed by person selling or soliciting the sale of products in certain circumstances excluded.

1. “Employment” does not include services performed by a person who:
 - (a) Directly sells or solicits the sale of products, in person or by telephone:
 - (1) On the basis of a deposit, commission, purchase for resale or similar arrangement specified by the administrator by regulation, if the products are to be resold to another person in his home or place other than a retail store; or
 - (2) To another person from his home or place other than a retail store;
 - (b) Receives compensation or remuneration based on his sales or the services he performs for customers rather than for the number of hours that he works; and
 - (c) Performs pursuant to a written agreement with the person for whom the services are performed which provides that he is not an employee for the purposes of this chapter.
2. As used in this section, “product” means a tangible good or an intangible service, or both.

(Added to NRS by 1983, 600; A 1993, 1805; 1997, 161)