



3005 1<sup>st</sup> Avenue, Seattle, WA 98121

Office: 360-486-7500 e-mail: [charris@univera.com](mailto:charris@univera.com)

Casey B. Harris  
Vice President and General Counsel

**\*\*\* VIA EMAIL \*\*\***

April 5, 2019  
Oregon House Business and Labor Committee  
Salem, OR

Re: Letter in Support for HB 3416, Clarification of OR Unemployment Compensation Statute

Dear Honorable Member of the House Business and Labor Committee:

Univera, Inc., a Seattle-based direct selling company with over 1,600 independent business associates who reside in Oregon and who sell almost \$2M in products in the state annually, wishes to express its support for HB 3416, sponsored by Rep. Jeff Barker, that would clarify direct sellers' status as independent contractors under Oregon statute.

ORS 657.087 specifically defines direct sellers as independent contractors under the state unemployment compensation statute. The statute was enacted in 1977 and requires that in order to meet the requirements of the statute, sales must occur in-person and in the home.

ORS 316.209 is consistent with Internal Revenue Service Code (26 U.S.C. § 3508) that specifically defines direct sellers as independent contractors. The law was enacted in 1983 immediately following Congress passing the Tax Equity and Fiscal Responsibility Act of 1982, which included this language. This language more clearly and specifically defines direct sellers and does not contain the requirement that sales be made in the home.

In May 2018, the Supreme Court in *ACN Opportunity, LLC v. Employment Department* ruled ACN was responsible for unemployment compensation for a handful of distributors. The court said that only the sales they could show were made in person and in the home would be eligible for this exemption.

In a concurring opinion, Chief Justice Balmer said "The requirements the legislature used to identify exempt direct sales in 1977—in-person solicitation and sales in the home---may no longer be appropriate to delineate some of the kinds of direct sales the legislature intended to reach when it enacted the exemption." HB 3416 would update Oregon law to be consistent with the IRS Code and ORS 316.209.

Univera, Inc., is in favor of this clarification to Oregon law on behalf of its independent business associates in the state. Thank you for your time and consideration.

Sincerely,

/Casey B. Harris/