



April 3, 2019

**Oregon House Business and Labor Committee**

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Re: Support for HB 3416: Provide Clarity for Direct Sellers

Dear Oregon House Business and Labor Committee:

I am the CEO of Stampin' Up! Inc., a direct selling company in the arts and crafts industry that has numerous independent sales persons known as "demonstrators" who operate home-based businesses in Oregon. Our company has been in business for over 30 years with demonstrators throughout the US and in nine foreign countries. I would like to add my voice in support for HB 3416, sponsored by Representative Jeff Barker. This bill is very important. It would clarify direct sellers' status as independent contractors under Oregon statute.

In Oregon, over 99% of our demonstrators are female. Most sell on a part-time basis to their neighbors, relatives, and friends to supplement their family income. They like the freedom and flexibility to build businesses on their own terms. Their direct selling activities are generally neither extensive nor sophisticated. Direct sellers are quintessential micro-entrepreneurs. It is a very genuine and effective way of doing business.

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. Moreover, 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."

On behalf of myself and our many demonstrators in Oregon, I request your support for HB 3416 to update Oregon statute which would delete the in-home sale requirement, thus making it consistent with the Internal Revenue Service Code (26 U.S.C. § 3508) and ORS 316.209. Thank you.

Sincerely,

Sara Douglass, CEO  
Stampin' Up! Inc.

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