



DIRECT SELLING ASSOCIATION

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DIRECT SELLERS SHOULD BE EXEMPT FROM LEGISLATION TARGETING TRANSIENT MERCHANTS AND TRAVELING SALES CREWS

Background

Transient Merchants

States and localities often seek to adopt laws to address the problem of “transient” or “itinerant” merchants selling on a temporary basis in communities. Often, these proposals focus on the fly-by-night nature of the transient merchant’s business- distinguishing the practice from traditional retailers who have a stake in the community. Unfortunately, direct sellers can fall within broad definitional terms since many individuals in the salesforce may only engage in the business temporarily, or may drop products off to a customer.

Traveling Sales Crews

Traveling sales crews are teams of 3 or more that travel from city to city and state-to-state to sell products. These sales crews typically move between areas so often that they are gone within 24 hours and a consumer has no recourse if they have purchased an inferior product. These sales crews may not abide by basic consumer protections such as the three-day cooling off period.

Position

To combat the problem of transient merchants and traveling sales crews, states and localities have proposed legislation that would place administrative burdens on individuals engaging in legitimate door-to-door sales. The proposed legislation is intended to prohibit abuses and ensure consumer protection. These proposals may require registering with a state or locality, obtaining a license, a photographic ID and paying high daily fees. However, it has been demonstrated that bad actors are not deterred by these requirements since they typically do not adhere to any local laws. Instead, licensing and registration ordinances would only hurt direct sellers who abide by the law. Further, DSA companies are required to abide by DSA’s Code of Ethics - which establishes standards for ethical business practices - while traveling sales crews and transient merchants are not.

Policy Alternative

DSA supports an individual consumer's right to deter solicitation by clearly displaying “no solicitation” signs or symbols. This would affirm the consumer’s right of choice without the enactment of legislation. DSA also supports exempting direct sellers from any “transient merchant” or “traveling sales crew” legislation. Such exemptions would be based upon 26 USC § 3508 of the Internal Revenue Service Code.