

**ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010**  
**COMMITTEE STATEMENT**  
**LB801**

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**Hearing Date:** Wednesday February 17, 2010  
**Committee On:** Judiciary  
**Introducer:** Fulton  
**One Liner:** Change the Uniform Deceptive Trade Practices Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

|                            |   |  |
|----------------------------|---|--|
| <b>Aye:</b>                | 7 | Senators Ashford, Christensen, Coash, Council, Lautenbaugh, McGill, Rogert |
| <b>Nay:</b>                |   |  |
| <b>Absent:</b>             |   |  |
| <b>Present Not Voting:</b> | 1 | Senator Lathrop  |

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**Proponents:**

Sen. Tony Fulton  
Leslie Levy  
Dean Heyl  
Bryan Harrison  
Barry Murov  
Stacie Rumenap  
Matt Benson  
Jim Otto

**Representing:**

Introducer  
Nebraska Attorney General  
Direct Selling Association  
Amway  
Reliv International, Inc.  
Stop Child Predators  
Southwestern Company  
Nebraska Retail Federation

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

Legislative Bill 801 would amend the Uniform Deceptive Trade Practices Act to define pyramid promotional scheme and other terms to distinguish illegal pyramid schemes from legitimate direct selling businesses. The bill would provide for a private cause of action for violation of the UDTPA for damages and require that the Attorney General be notified by certified mail of the filing of such action and of any final judgment within 7 days. Under the bill, the Attorney General may intervene as a party in such an action. In addition, the Attorney General may issue cease and desist orders against any person engaged in activities in violation of the UDTPA. The bill would establish the burden of proof for violations of the UDTPA at the standard of preponderance of the evidence.

Under the bill, the submission of false documents to local, state, or federal government in the course of one's business, vocation or occupation would be a violation of the UDTPA.

Also under the bill, the distributor of a covered file-sharing program (peer-to-peer network) would be required to provide clear and conspicuous notice to the owner or user of the computer on which the software is installed that their files will be made available to the public without requiring intentional activation of the file-sharing function by the owner or user.

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The bill would extend the statute of limitations for civil actions under the UDTPA from within four years from the date of purchase to include within four years from the occurrence of the last event giving rise to the action or within four years from discovery of the violation, whichever is later.

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**Explanation of amendments:**

Committee Amendment AM 1972 would remove the change to the statute of limitations. The amendment also removes language making it a violation of the UDTPA to submit a document containing false statements to federal, state and local governments. The amendment also reinstates current law on recovery of costs and attorneys fees.

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Brad Ashford, Chairperson