
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1724

Session of
1985

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STABACK AND MAYERNIK, OCTOBER 7, 1985

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, OCTOBER 7, 1985

AN ACT

1 Providing for agreements between sales representatives and their
2 principals.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Definitions.

6 The following words and phrases when used in this act shall
7 have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Commission." Compensation accruing to a sales
10 representative for payment by a principal, earned through the
11 last day on which services were performed by the sales
12 representative, the rate of which is expressed as a percentage
13 of the dollar of orders or sales.

14 "Discharge." The removal of the sales representative by the
15 principal. The term includes any action taken by the principal
16 against the sales representative that concludes the relationship

1 of the parties.

2 "Mediation." An attempt by a third party to help in
3 negotiations or in the settlement of a dispute between the
4 principal and the sales representative through suggestion or
5 other way of stimulating agreement. The mediator shall be
6 selected in accordance with provisions in the contract.

7 "Principal." Any person who does not have a permanent or
8 fixed place of business in this Commonwealth and who does all of
9 the following:

10 (1) Engages in the business of manufacturing, producing,
11 importing or distributing a product for sale to customers who
12 purchase such products for resale.

13 (2) Utilizes sales representatives to solicit orders for
14 such product.

15 (3) Compensates sales representatives in whole by
16 commission.

17 "Sales representative." A person who contracts with a
18 principal to solicit wholesale orders from retailers rather than
19 consumers and who is compensated, in whole or in part, by
20 commission. The term shall not include one who places orders or
21 purchases for his own account for resale or one who is an
22 employee of a principal.

23 "Termination." The end of services performed by the sales
24 representative for the principal. The term includes any action
25 that concludes the relationship of the parties.

26 Section 2. Contracts.

27 (a) Contents.--When a sales representative enters into an
28 agreement with the principal for the solicitation of wholesale
29 orders, a written contract shall be entered into setting forth
30 the following:

1 (1) The form of payment and the method by which it is to
2 be computed and made.

3 (2) A specified period for the performance of services.

4 (3) The manner and extent to which job incurred expenses
5 be reimbursed.

6 (4) Reasonable grounds for termination of an agreement
7 between the principal and the sales representative.

8 (5) A specified geographical territory or specified
9 accounts.

10 (6) Reasonable grounds for change or reduction of a
11 specified geographical territory or specified account.

12 (7) The manner and time in which disputes arising out of
13 the agreement will be settled, including the right to
14 arbitrate disputes that cannot be resolved by mediation.

15 (8) Fifty percent of an account's commission, payable to
16 the sales representative if it was initially an exclusive
17 account made into a house account.

18 (9) That any territory or account changes or reduction
19 will be preceded by at least 60 days written notice.

20 (10) A written notice, of not less than 60 days,
21 indicating termination of the contract of employment.

22 (b) Copy and receipt.--The principal shall provide each
23 sales representative a signed copy of the contract. The
24 principal shall obtain a signed receipt for the contract from
25 each sales representative.

26 (c) Payment upon termination.--In the event the agreement of
27 services is terminated for any reason, and if the contract does
28 not comply with this section except as provided in section 3,
29 all the commissions and wages earned and unpaid through the time
30 of termination are due within a period not to exceed 14 working

1 days after termination.

2 (d) Civil liability.--Except as provided in section 3, a
3 principal who fails to comply with this section or any agreement
4 established under this act is liable in a civil action to the
5 sales representative and the cost of duty, including reasonable
6 attorney fees.

7 Section 3. Termination.

8 (a) Time wages and commissions become due.--In the event a
9 contract is terminated that does not specify a period of service
10 as required in section 2, the wages and commissions earned and
11 unpaid through the last day of employment shall become due and
12 payable within 48 hours if the sales representative is
13 discharged, and within 72 hours if the sales representative
14 resigns.

15 (b) Penalty for nonprompt payment.--If the principal fails
16 to pay the sales representatives his commissions earned through
17 the last day of employment on demand within the applicable
18 period as provided under this section, the employer shall be
19 liable to the sales representative, in addition to his earned
20 commissions, for a penalty for each day, not exceeding 15 days,
21 on which the principal is late in making full payment or
22 satisfactory settlement to the sales representative for the
23 commissions earned through the last day of employment. The daily
24 penalty shall be in an amount equal to the sales
25 representative's average daily earnings, based on the last three
26 years of the sales representative's gross earnings, or based on
27 the entire period of service if less than three years. In
28 addition, the sale representative shall be entitled to costs of
29 suit and reasonable attorney fees.

30 Section 4. Commissions and goods delivered after end of

1 agreement.

2 A sales representative shall receive commissions on goods
3 ordered prior to the last day of employment, but delivered and
4 accepted after the end of an agreement, which shall become due
5 and payable within a reasonable amount of time, no later than 90
6 days following the last day of employment.

7 Section 5. Arbitration.

8 If, after a period of time not exceeding 14 days, efforts and
9 negotiation over a dispute or disputes over the interpretation
10 of the terms of a written agreement cannot be resolved, either
11 party or the parties jointly may petition to the commercial
12 forum of the American Arbitration Association for an
13 arbitration. The costs of arbitration shall be shared equally by
14 the principal and the sales representative.

15 Section 6. Specific territory on accounts.

16 The sales representative who is assigned a certain
17 geographical territory or specified accounts by the principal,
18 as set forth in the contract of employment, may not have the
19 territory or accounts arbitrarily changed or reduced without
20 grounds as set forth in the written contract of employment.

21 Section 7. Payment.

22 The wages and commissions shall be paid at the usual place of
23 payment unless the sales representative requests that the wages
24 and commissions be sent through registered mail. If, in
25 accordance with a request by the sales representative, the sales
26 representative's wages and commissions are sent through the
27 mail, the wages and commissions shall be deemed to have been
28 paid as of the date of their registered postmark.

29 Section 8. Construction of act.

30 Nothing in this act shall invalidate or restrict any other or

1 additional right of remedy available to sales representatives or
2 preclude sales representatives from seeking to recover in one
3 action on all claims against a principal.

4 Section 9. Existing agreements.

5 Any oral agreement between a principal and a sales
6 representative that is in existence on the effective date of
7 this act shall, no later than one year after that date, be
8 reduced to a written agreement and shall comply with and be
9 subject to this act. Any written agreement between a principal
10 and a sales representative that is in existence on the effective
11 date of this act shall, on the first renewal date on or after
12 such effective date, comply with and be subject to this act.

13 Section 10. Effective date.

14 This act shall take effect in 60 days.