

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 162

Short Title: Sales Representative Commissions.

(Public)

Sponsors: Representatives Abernethy; Jones and Flaherty.

Referred to: Commerce.

February 6, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT THE RIGHTS OF SALES REPRESENTATIVES TO POST-
3 TERMINATION SALES COMMISSIONS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 66 of the General Statutes is amended by adding a new
6 Article to read:

7 **“ARTICLE 27.**

8 **“SALES REPRESENTATIVE COMMISSIONS.**

9 **“§ 66-190. Definitions.**

10 The following definitions apply in this Article:

- 11 (1) ‘Commission’ means compensation accruing to a sales representative
12 for payment by a principal, the rate of which is expressed as a
13 percentage of the amount of orders or sales or as a specified amount
14 per order or per sale.
15 (2) ‘Person’ means an individual, corporation, partnership, association,
16 estate, or trust.
17 (3) ‘Principal’ means a person who does not have a permanent or fixed
18 place of business in this State and who:
19 a. Manufactures, produces, imports, or distributes a tangible
20 product for sale at wholesale;
21 b. Contracts with a sales representative to solicit orders for the
22 product; and
23 c. Compensates the sales representative, in whole or in part, by
24 commission.

- 1 (4) 'Sales Representative' means a person who:
2 a. Contracts with a principal to solicit wholesale orders;
3 b. Is compensated, in whole or in part, by commission;
4 c. Does not place orders or purchase for his own account or for
5 resale;
6 d. Does not sell or take orders for the sale of products at retail; and
7 e. Is not an employee of the principal.

8 **"§ 66-191. Payment of commissions.**

9 When a contract between a sales representative and a principal is terminated for any
10 reason, the principal shall pay the sales representative all commissions accrued under
11 the contract to the sales representative within 45 days after the effective date of the
12 termination.

13 **"§ 66-192. Civil liability.**

14 (a) A principal who fails to comply with the provisions of G.S. 66-191 is liable to
15 the sales representative in a civil action for (i) attorney's fees actually and reasonably
16 incurred by the sales representative in the action, and (ii) court costs.

17 (b) Where the court determines that an action brought by a sales representative
18 against a principal under this Article is frivolous, the sales representative is liable to the
19 principal for court costs and for attorney's fees actually and reasonably incurred by the
20 principal in defending the action.

21 (c) A principal who is not a resident of this State who contracts with a sales
22 representative to solicit orders in this State may be subject to personal jurisdiction as
23 provided in G.S. 1-75.4.

24 (d) Nothing in this Article shall invalidate or restrict any other or additional right
25 or remedy available to a sales representative or preclude a sales representative from
26 seeking to recover in one action on all claims against a principal.

27 **"§ 66-193. Contracts void.**

28 A provision in any contract between a sales representative and a principal purporting
29 to waive any provision of this Article, whether by expressed waiver or by a contract
30 subject to the laws of another state, is void."

31 Sec. 2. This act shall become effective October 1, 1989, and applies to
32 contracts entered into or renewed on or after that date.