

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 162  
Committee Substitute Favorable 5/10/89

Short Title: Sales Representative Commissions.

(Public)

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Sponsors:

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Referred to:

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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

1 c. Compensates the sales representative, in whole or in part, by  
2 commission.

3 (4) 'Sales representative' means a person who:

4 a. Contracts with a principal to solicit wholesale orders;

5 b. Is compensated, in whole or in part, by commission;

6 c. Does not place orders or purchase for his own account or for  
7 resale;

8 d. Does not sell or take orders for the sale of products at retail; and

9 e. Is not an employee of the principal.

10 **"§ 66-191. Payment of commissions.**

11 When a contract between a sales representative and a principal is terminated for any  
12 reason other than malfeasance on the part of the sales representative, the principal shall  
13 pay the sales representative all commissions accrued under the contract to the sales  
14 representative within 45 days after the effective date of the termination.

15 **"§ 66-192. Civil liability.**

16 (a) A principal who fails to comply with the provisions of G.S. 66-191 is liable to  
17 the sales representative in a civil action for (i) all amounts due the sales representative  
18 plus exemplary damages in an amount not to exceed the amount of commissions due the  
19 sales representative, (ii) attorney's fees actually and reasonably incurred by the sales  
20 representative in the action, and (iii) court costs.

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

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

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

31 **"§ 66-193. Contracts void.**

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

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