



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4929

by Rep. David A. Welter

SYNOPSIS AS INTRODUCED:

820 ILCS 120/1
820 ILCS 120/3

from Ch. 48, par. 2251
from Ch. 48, par. 2253

Amends the Sales Representative Act. Changes the definition of "principal" to mean a sole proprietorship, partnership, corporation or other business entity which offers a product or service for sale (rather than manufactures, produces, imports, or distributes a product for sale). Removes from the definition of "sales representative" a person who qualifies as an employee of a principal pursuant to the Illinois Wage Payment and Collection Act. Provides that a principal who fails to comply with certain provisions under the Act concerning timely payment or with any contractual provision concerning timely payment of commissions due upon the termination of the contract with the sales representative, shall be liable in a civil action for exemplary damages in an amount which is at least the amount of the commission owed and does not exceed 3 times the amount of the commissions owed to the sales representative (rather than which does not exceed 3 times the amount of the commissions owed to the sales representative). Effective immediately.

LRB100 16296 KTG 31419 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Sales Representative Act is amended by
5 changing Sections 1 and 3 as follows:

6 (820 ILCS 120/1) (from Ch. 48, par. 2251)

7 Sec. 1. As used in this Act:

8 (1) "Commission" means compensation accruing to a sales
9 representative for payment by a principal, the rate of which is
10 expressed as a percentage of the dollar amount of orders or
11 sales or as a percentage of the dollar amount of profits.

12 (2) When a commission becomes due shall be determined in
13 the following manner:

14 (A) The terms of the contract between the principal and
15 salesperson shall control;

16 (B) If there is no contract, or if the terms of the
17 contract do not provide when the commission becomes due, or
18 the terms are ambiguous or unclear, the past practice used
19 by the parties shall control;

20 (C) If neither (A) nor (B) can be used to clearly
21 ascertain when the commission becomes due, the custom and
22 usage prevalent in this State for the parties' particular
23 industry shall control.

1 (3) "Principal" means a sole proprietorship, partnership,
2 corporation or other business entity whether or not it has a
3 permanent or fixed place of business in this State and which:

4 (A) Offers a product or service for sale; ~~Manufactures,~~
5 ~~produces, imports, or distributes a product for sale;~~

6 (B) Contracts with a sales representative to solicit
7 orders for the product; and

8 (C) Compensates the sales representative, in whole or
9 in part, by commission.

10 (4) "Sales representative" means a person who contracts
11 with a principal to solicit orders and who is compensated, in
12 whole or in part, by commission, but shall not include one who
13 places orders or purchases for his own account for resale. ~~or~~
14 ~~one who qualifies as an employee of the principal pursuant to~~
15 ~~the Illinois Wage Payment and Collection Act.~~

16 (Source: P.A. 86-586; 87-948.)

17 (820 ILCS 120/3) (from Ch. 48, par. 2253)

18 Sec. 3. A principal who fails to comply with the provisions
19 of Section 2 concerning timely payment or with any contractual
20 provision concerning timely payment of commissions due upon the
21 termination of the contract with the sales representative,
22 shall be liable in a civil action for exemplary damages in an
23 amount which is at least the amount of the commission owed and
24 does not exceed 3 times the amount of the commissions owed to
25 the sales representative. Additionally, such principal shall

1 pay the sales representative's reasonable attorney's fees and
2 court costs.

3 (Source: P.A. 84-627.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.