

House Bill No. 679

An act relating to sales representative contracts involving commissions; amending s. 686.201, F.S.; revising definitions; providing for application to certain persons as well as businesses; including services as well as products; providing for application to retail as well as wholesale transactions; increasing damages under certain actions for compliance; specifying nonapplication to certain licensed persons performing services within the scope of their license; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 686.201, Florida Statutes, is amended to read:

686.201 Sales representative contracts involving commissions; requirements; termination of agreement; civil remedies.—

(1) As used in this act, the term:

(a) “Commission” means compensation accruing to a sales representative for payment by a principal, the rate of which compensation is expressed as a percentage of the dollar amount of orders or sales.

(b) “Principal” means a person or business which ~~who does not have a permanent or fixed place of business in this state and who:~~

1. Manufactures, produces, imports, or distributes a product or service ~~for wholesale, except for fresh commodities;~~

2. Contracts with a sales representative to solicit orders for the product or service; ~~and~~

3. Compensates the sales representative, in whole or in part, by commission.

(c) “Sales representative” means a person or business which ~~who~~ contracts with a principal to solicit ~~wholesale~~ orders and who is compensated, in whole or in part, by commission, but does not include a person or business which ~~who~~ places orders for his or her own account for resale or a person who is an employee of the business.

(2) When a principal contracts with a sales representative to solicit ~~wholesale~~ orders within this state, the contract shall be in writing and shall set forth the method by which the commission is to be computed and paid. The principal shall provide the sales representative with a signed copy of the contract and shall obtain a signed receipt for the contract from the sales representative.

(3)(a) When the contract between a sales representative and a principal is terminated and the contract was not reduced to writing, all commissions due shall be paid within 30 days after ~~of~~ termination.

(b) In the event a principal fails to comply with the provisions of paragraph (a), the sales representative has a cause of action for damages equal to ~~triple~~ double the amount of commission found to be due. The prevailing party in any such action is entitled to an award of reasonable attorney's fees and court costs.

(4) This section does not apply to persons licensed pursuant to chapter 475 who are performing services within the scope of their license.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor May 21, 2004.

Filed in Office Secretary of State May 21, 2004.