A bill to be entitled 1 2 An act relating to contracts between sales 3 representatives and principals for wholesale sales contracts; amending s. 686.201, F.S.; 4 5 revising the requirements for contracts between sales representatives who solicit orders on 6 7 behalf of principals; providing that such 8 contracts may be oral or written; providing 9 that a principal may be in-state or out-of-state; defining the term "termination" 10 11 for purposes of the section; providing for the 12 due date of certain commissions; providing for 13 triple damages; deleting the provision for either party who prevails to receive an award 14 15 of reasonable attorney's fees and court costs; 16 providing for the sales representative to receive such fees and costs; providing for 17 jurisdiction over out-of-state principals who 18 enter into contracts subject to the section; 19 20 prohibiting a waiver of any provision of the 21 section; providing an effective date. 22 23 Be It Enacted by the Legislature of the State of Florida: 24 25 Section 1. Section 686.201, Florida Statutes, is 26 amended to read: 27 686.201 Sales representatives 'representative 28 contracts providing for payment of involving commissions;

requirements; termination of agreement; civil remedies .--

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

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- "Commission" means compensation accruing to a (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 who does not have a permanent or fixed place of business in this state and who:
- Manufactures, produces, imports, or distributes a product for wholesale, except for fresh commodities;
- 2. Contracts orally or in writing with a sales representative to solicit orders for the product; and
- 3. Compensates the sales representative, in whole or in part, by commission.
- "Sales representative" means a person who contracts orally or in writing with a principal to solicit wholesale orders in this state and who is compensated, in whole or in part, by commission, but does not include a person who places orders for his or her own account for resale.
- (d) "Termination" means the end of the services performed by the sales representative for the principal by discharge or resignation of the sales representative or by expiration of the contract.
- (2) When a principal contracts with a sales representative to solicit wholesale orders within this state, the contract may shall be oral or in writing and shall set forth the method and the time by which the commission is to be computed and paid. If the contract is in writing, 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 31 representative and a principal is terminated and the contract

was not reduced to writing, all commissions due <u>at that time</u> shall be paid within <u>14 working 30 days after the date</u> of termination, and all commissions due after the date of termination shall be paid within 14 working days after the due date.

- (b) If the time when the commissions are due cannot be determined by the contract between the principal and the sales representative, the past practices between the parties control or, if there were no past practices, the custom and usage prevalent in this state for the business that is the subject of the relationship between the parties controls.
- (c)(b) If In the event a principal fails to comply with the commission payment terms of the contract or fails to comply with the provisions of paragraph (a) or paragraph (b), the sales representative has a cause of action for damages equal to triple double the amount of commission found to be due and. The prevailing party in any such action is entitled to an award of reasonable attorney's fees and court costs.
- (4) A principal who is not a resident of this state and who enters into a contract subject to this section is considered to be doing business in this state for purposes of the exercise of personal jurisdiction over the principal.
- (5) A provision of this section may not be waived by an express waiver or by an attempt to make a contract subject to the laws of another state. A waiver of a provision of this section is void.

Section 2. This act shall take effect July 1, 2000.

HOUSE SUMMARY Revises the law pertaining to contracts between sales representatives and principals for the solicitation of wholesale sales contracts. Extends jurisdiction of the law to include in-state and out-of-state principals who enter such contracts with sales representatives who solicit orders in this state. Provides for payment of commissions upon termination of the contract. See bill for details for details.