

By the Committee on Commerce, Economic Opportunities, and Consumer Services; and Senator Miller

310-2274-04

1 A bill to be entitled
2 An act relating to sales representative
3 contracts involving commissions; amending s.
4 686.201, F.S.; revising definitions; providing
5 for application to certain persons as well as
6 businesses; including services as well as
7 products; providing for application to retail
8 as well as wholesale transactions; increasing
9 damages under certain actions for compliance;
10 providing an effective date.

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

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

16 686.201 Sales representative contracts involving
17 commissions; requirements; termination of agreement; civil
18 remedies.--

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

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

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

27 1. Manufactures, produces, imports, or distributes a
28 product or service ~~for wholesale, except for fresh~~
29 ~~commodities.~~†

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

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

3 (c) "Sales representative" means a person or business
4 which ~~who~~ contracts with a principal to solicit ~~wholesale~~
5 orders and who is compensated, in whole or in part, by
6 commission, but does not include a person or business which
7 ~~who~~ places orders for his or her own account for resale or a
8 seller who complies with s. 501.025 or 16 C.F.R. part 429.

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

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

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

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

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1842

The committee substitute excludes from the definition of "sales representative" sellers who comply with s. 501.025, F.S., which is the statute governing the buyer's right to cancel a home solicitation sale, or 16 C.F.R. part 429, which is the federal regulation regarding a cooling-off period for sales made at homes or certain other locations. Those sellers who fall under the exclusion will be unable to utilize the cause of action in the committee substitute's provisions against a principal.