
SENATE BILL No. 137

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-2-16.

Synopsis: Independent sales representative commissions. Establishes the time at which a commission is due an independent sales representative who contracts with a principal to solicit orders for a product manufactured, produced, imported, or distributed by the principal. Provides that, when a contract between an independent sales representative and a principal is terminated, the principal shall pay a commission not later than 13 days after the commission is due, for commissions due after termination, or 13 days after the date of termination, for commissions due at termination. Provides that a principal who fails to pay a commission when it is due is liable in a civil action for exemplary damages of not more than three times the sum of the commission owed, plus reasonable attorney's fees and court costs. Provides that a provision in a contract to waive the required payment times is void.

Effective: July 1, 2013.

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January 7, 2013, read first time and referred to Committee on Civil Law.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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SENATE BILL No. 137



A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 22-2-16 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2013]:
- 4 **Chapter 16. Payment of Commissions to Independent Sales**
- 5 **Representatives**
- 6 **Sec. 1. (a) This chapter applies to a written or oral contract**
- 7 **entered into, modified, renewed, or extended after July 1, 2013.**
- 8 **(b) This chapter does not apply to or abrogate a written or oral**
- 9 **contract in effect on July 1, 2013.**
- 10 **Sec. 2. As used in this chapter, "commission" means**
- 11 **compensation that accrues to a sales representative, for payment**
- 12 **by a principal, at a rate expressed as a percentage of the dollar**
- 13 **amount of:**
- 14 **(1) orders taken or sales made by the sales representative; or**
- 15 **(2) profits attributable to orders or sales described in**
- 16 **subdivision (1).**
- 17 **Sec. 3. As used in this chapter, "person" means an individual, a**



1 sole proprietorship, a partnership, a firm, an association, a limited
2 liability company, a corporation, or any other business entity.

3 Sec. 4. As used in this chapter, "principal" means a person,
4 whether or not the person has a fixed place of business within
5 Indiana, who:

6 (1) manufactures, produces, imports, or distributes a product
7 for sale;

8 (2) contracts with a sales representative to solicit orders for
9 the product; and

10 (3) compensates the sales representative, in whole or in part,
11 by commission.

12 Sec. 5. (a) As used in this chapter, "sales representative" means
13 a person who:

14 (1) contracts with a principal to solicit orders for a product
15 manufactured, produced, imported, or distributed by the
16 principal; and

17 (2) is compensated, in whole or in part, by commission.

18 (b) The term does not include a person who:

19 (1) places orders or makes purchases for the person's own
20 account for resale; or

21 (2) qualifies as an employee for purposes of IC 22-2-5 or
22 IC 22-2-9.

23 Sec. 6. Except as provided in section 7 of this chapter, a
24 commission becomes due at a time determined as follows:

25 (1) By the terms of the contract between the sales
26 representative and the principal.

27 (2) If:

28 (A) there is no contract; or

29 (B) the terms of the contract:

30 (i) do not specify when a commission becomes due; or

31 (ii) are unclear or ambiguous as to when a commission
32 becomes due;

33 by the past practice of the parties.

34 (3) If the time when a commission becomes due cannot be
35 established under subdivision (1) or (2), by the custom and
36 usage prevalent in the state for the particular industry in
37 which the parties are involved.

38 Sec. 7. (a) When a contract between a sales representative and
39 a principal is terminated, the principal shall pay a commission:

40 (1) not later than thirteen (13) days after the date of
41 termination, for a commission that is due at the time of
42 termination; and

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1 **(2) not later than thirteen (13) after the date the commission**
2 **becomes due, for a commission that becomes due after the**
3 **date of the termination.**
4 **(b) A principal who fails to comply with subsection (a) is liable**
5 **in a civil action for exemplary damages in an amount not more**
6 **than three (3) times the sum of the commission owed to the sales**
7 **representative.**
8 **(c) In an action under subsection (b), a principal against whom**
9 **exemplary damages are awarded shall also pay the sales**
10 **representative's reasonable attorney's fees and court costs.**
11 **Sec. 8. A provision in a contract between a sales representative**
12 **and a principal that waives a provision of this chapter is void.**

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