

HOUSE BILL No. 5641

March 28, 1990, Introduced by Reps. Honigman and Perry Bullard
and referred to the Committee on Judiciary.

A bill to regulate posttermination commissions for contracts
between principals and sales representatives for the wholesale
solicitation of goods within this state; and to provide for
remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Commission" means compensation accruing to a sales rep-
3 resentative for payment by a principal, the rate of which is
4 expressed as a percentage of the amount of orders or sales or as
5 a percentage of the dollar amount of profits.

6 (b) "Person" means an individual, partnership, corporation,
7 association, estate, trust, or other legal entity.

8 (c) "Principal" means a person that does either or both of
9 the following:

1 (i) Manufactures, produces, imports, sells, or distributes a
2 product in this state for wholesale.

3 (ii) Contracts with a sales representative to solicit whole-
4 sale orders for a product in this state.

5 (d) "Sales representative" means a person who contracts with
6 a principal for the solicitation of wholesale orders and is paid
7 by commission. Sales representative does not include a person
8 who places a wholesale order for a product on his or her own
9 account for resale by that sales representative.

10 Sec. 3. (1) Upon the termination of a contract between a
11 principal and a sales representative, the principal shall pay the
12 sales representative any commission accrued under the contract
13 within 14 days after the effective date of the termination of the
14 contract.

15 (2) In the case of a contract that does not contain a spe-
16 cific termination date or a contract that provides for termina-
17 tion by 1 or both parties at any time, the effective date of ter-
18 mination is the date the person terminating the contract sends
19 notice of termination by certified mail to the other contracting
20 person at that person's address as indicated in the written
21 contract. If a written contract does not exist, then the date of
22 termination is the date the notice is sent and the notice shall
23 be sent to the address of the other person as indicated in the
24 terminating person's books and records.

25 Sec. 5. (1) In the case of a sales representative who has
26 complied with the notice of termination requirements contained in
27 section 3 and who has not received his or her commission within

1 the time period prescribed by that section, the sales
2 representative may bring an action in a court of competent juris-
3 diction against the principal for 3 times the amount of commis-
4 sions, plus reasonable attorney fees and costs.

5 (2) In an action brought under subsection (1), jurisdiction
6 shall be determined in accordance with chapter 7 of the revised
7 judicature act of 1961, Act No. 236 of the Public Acts of 1961,
8 being sections 600.701 to 600.775 of the Michigan Compiled Laws.

9 Sec. 7. (1) A provision in a contract between a principal
10 and a sales representative purporting to waive any right under
11 this act is void.

12 (2) This act does not affect the rights of a principal or
13 sales representative that are otherwise provided by law.