

Part 1 General Provisions

34-44-101 Title.

This chapter is known as the "Sales Representative Commission Payment Act."

Enacted by Chapter 65, 2007 General Session

34-44-102 Definitions.

As used in this chapter:

- (1) "Business relationship" means an agreement that governs the relationship of principal and sales representative.
- (2) "Commission" means:
 - (a) compensation:
 - (i) that accrues to a sales representative;
 - (ii) for payment by a principal; and
 - (iii) at a rate expressed as a percentage of the dollar amount of sales, orders, or profits; or
 - (b) any other method of compensation agreed to between a sales representative and a principal including:
 - (i) fees for services; and
 - (ii) a retainer.
- (3)
 - (a) "Direct sales company" means a person that:
 - (i) sells, distributes, or supplies for consideration a good or service through participants:
 - (A) at different levels of distribution; or
 - (B) in accordance with a formula for compensating participants in whole or in part based on:
 - (I) the sale of a good or service; and
 - (II) the recruitment of or the performance or action of another participant; and
 - (ii)
 - (A) permits participants to recruit other participants to sell, distribute, or supply for consideration the person's good or service; or
 - (B) provides for commission, cross-commissions, override commissions, bonuses, refunds, dividends, or other consideration that is or may be paid as a result of:
 - (I) the sale of a good or service; or
 - (II) the recruitment of or the performance or action of another participant.
 - (b) As used in this Subsection (3), "participant" means an independent agent, contractor, or distributor.
 - (4) "Principal" means a person who:
 - (a) engages in any of the following activities with regard to a product or service:
 - (i) manufactures;
 - (ii) produces;
 - (iii) imports;
 - (iv) sells; or
 - (v) distributes;
 - (b) establishes a business relationship with a sales representative to solicit orders for a product or a service described in Subsection (4)(a); and
 - (c) agrees to compensate a sales representative, in whole or in part, by commission.

- (5)
- (a) Except as provided in Subsection (5)(b), "sales representative" means a person who enters into a business relationship with a principal:
 - (i) to solicit orders for a product or a service described in Subsection (4)(a); and
 - (ii) under which the person is compensated, in whole or in part, by commission.
 - (b) "Sales representative" does not include:
 - (i) an employee of a principal;
 - (ii) a person licensed under Title 31A, Insurance Code;
 - (iii) a person licensed under Title 41, Chapter 3, Part 2, Licensing;
 - (iv) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act;
 - (v) a person who provides a product or service under a business relationship with a principal that is incident to the purchase or sale of real property;
 - (vi) a person who places an order or purchases a product or service for that person's own account for resale; or
 - (vii) an independent agent, contractor, or distributor through whom a direct sales company supplies for consideration a good or service.
- (6) "Terminates" or "termination" means the end of a business relationship between a sales representative and a principal, whether by:
- (a) agreement;
 - (b) expiration of a time period; or
 - (c) exercise of a right of termination by either the principal or the sales representative.

Amended by Chapter 438, 2019 General Session

34-44-103 Jurisdiction in courts.

An action under this chapter may be brought against a principal in a court of this state if:

- (1) the principal enters into a business relationship in this state with a sales representative to solicit orders for a product or a service; or
- (2)
 - (a) a product of the principal is:
 - (i) manufactured, distributed, sold, or received in this state; or
 - (ii) imported to or from this state; or
 - (b) a service of the principal is provided in this state.

Enacted by Chapter 65, 2007 General Session

34-44-104 Void provisions.

Any of the following provisions in an agreement between a sales representative and a principal is void:

- (1) an express waiver of any right under this chapter;
- (2) for a writing required by Section 34-44-201 that is entered into in this state, a provision that makes the sales representative subject to the laws of another state; or
- (3) a requirement that the sales representative pursue a claim under this chapter in a court not located in the state.

Enacted by Chapter 65, 2007 General Session