

1 **SALES REPRESENTATIVE COMMISSION PAYMENT ACT**

2 **AMENDMENTS**

3 2019 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Kirk A. Cullimore**

6 House Sponsor: Brady Brammer

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Sales Representative Commission Payment Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ excludes a participant in a multilevel marketing company from the definition of
- 15 "sales representative"; and
- 16 ▶ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **34-44-102**, as last amended by Laws of Utah 2010, Chapter 379

24

25 *Be it enacted by the Legislature of the state of Utah:*

26 Section 1. Section **34-44-102** is amended to read:

27 **34-44-102. Definitions.**



28 As used in this chapter:

29 (1) "Business relationship" means an agreement that governs the relationship of
30 principal and sales representative.

31 (2) "Commission" means:

32 (a) compensation:

33 (i) that accrues to a sales representative;

34 (ii) for payment by a principal; and

35 (iii) at a rate expressed as a percentage of the dollar amount of sales, orders, or profits;

36 or

37 (b) any other method of compensation agreed to between a sales representative and a
38 principal including:

39 (i) fees for services; and

40 (ii) a retainer.

41 (3) (a) "Multilevel marketing company" means a person that:

42 (i) sells, distributes, or supplies for consideration a good or service through
43 participants:

44 (A) at different levels of distribution; or

45 (B) in accordance with a formula for compensating participants in whole or in part
46 based on:

47 (I) the sale of a good or service; and

48 (II) the recruitment of or the performance or action of another participant; and

49 (ii) (A) permits participants to recruit other participants to sell, distribute, or supply for
50 consideration the person's good or service; or

51 (B) provides for commission, cross-commissions, override commissions, bonuses,
52 refunds, dividends, or other consideration that is or may be paid as a result of:

53 (I) the sale of a good or service; or

54 (II) the recruitment of or the performance or action of another participant.

55 (b) As used in this Subsection (3), "participant" means an independent agent,
56 contractor, or distributor.

57 [~~3~~] (4) "Principal" means a person who:

58 (a) engages in any of the following activities with regard to a product or service:

- 59 (i) manufactures;
- 60 (ii) produces;
- 61 (iii) imports;
- 62 (iv) sells; or
- 63 (v) distributes;
- 64 (b) establishes a business relationship with a sales representative to solicit orders for a
- 65 product or a service described in Subsection [~~(3)~~] (4)(a); and
- 66 (c) agrees to compensate a sales representative, in whole or in part, by commission.
- 67 [~~(4)~~] (5) (a) Except as provided in Subsection [~~(4)~~] (5)(b), "sales representative" means
- 68 a person who enters into a business relationship with a principal:
- 69 (i) to solicit orders for a product or a service described in Subsection [~~(3)~~] (4)(a); and
- 70 (ii) under which the person is compensated, in whole or in part, by commission.
- 71 (b) "Sales representative" does not include:
- 72 (i) an employee of a principal;
- 73 (ii) a person licensed under Title 31A, Insurance Code;
- 74 (iii) a person licensed under Title 41, Chapter 3, Part 2, Licensing;
- 75 (iv) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices
- 76 Act;
- 77 (v) a person who provides a product or service under a business relationship with a
- 78 principal that is incident to the purchase or sale of real property; [~~or~~]
- 79 (vi) a person who places an order or purchases a product or service for that person's
- 80 own account for resale[-]; or
- 81 (vii) an independent agent, contractor, or distributor through whom a multilevel
- 82 marketing company supplies for consideration a good or service.
- 83 [~~(5)~~] (6) "Terminates" or "termination" means the end of a business relationship
- 84 between a sales representative and a principal, whether by:
- 85 (a) agreement;
- 86 (b) expiration of a time period; or
- 87 (c) exercise of a right of termination by either the principal or the sales representative.