

FIRST REGULAR SESSION

SENATE BILL NO. 124

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SIMS.

Pre-filed December 1, 1998, and 1,000 copies ordered printed.

S0567.011

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 407.911 and 407.913, RSMo 1994, relating to sales commissions, and to enact in lieu thereof two new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 407.911 and 407.913, RSMo 1994, are repealed and two new sections enacted in lieu thereof, to be known as sections 407.911 and 407.913, to read as follows:

407.911. As used in sections 407.911 to 407.915, the following terms mean:

(1) "Commission", compensation accruing to a sales representative for payment by a principal, the rate of which is expressed as a percentage of the dollar amount of orders or sales, or as a specified amount per order or per sale;

(2) "Person", an individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, department or bureau of the state or federal government, or any other legal entity which is recognized by law as the subject of rights and duties;

[(2)] **(3)** "Principal", a person, firm, corporation, partnership or other business entity, whether or not it has a permanent or fixed place of business in this state, and who:

- (a) Manufactures, produces, imports, or distributes a product for wholesale;
- (b) Contracts with a sales representative to solicit orders for the product; and
- (c) Compensates the sales representative, in whole or in part, by commission;

[(3)] **(4)** "Sales representative", a person who contracts with a principal to solicit wholesale orders and who is compensated, in whole or in part, by commission, but shall not include one who places orders or purchases for his own account for resale.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

407.913. Any principal who fails to timely pay [the sales representative] a **person** commissions earned by such [sales representative] **person** shall be liable to the [sales representative] **person** in a civil action for the actual damages sustained by the [sales representative] **person**, an additional amount as if the [sales representative] **person** were still earning commissions calculated on an annualized pro rata basis from the date of termination to the date of payment. In addition the court may award reasonable attorney's fees and costs to the prevailing party.

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