

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1098

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H.P. 764

House of Representatives, March 13, 1991

Received by the Clerk of the House on March 11, 1991. Referred to the Committee on Business Legislation and 1400 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative RYDELL of Brunswick.

Cosponsored by Representative KILKELLY of Wiscasset, Senator CLARK of Cumberland and Representative NADEAU of Saco.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act to Protect the Rights of Independent Sales Representatives after  
Termination of Their Contracts.**

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Be it enacted by the People of the State of Maine as follows:

10 MRSA c. 210-A is enacted to read:

CHAPTER 210-A

SALES REPRESENTATIVE COMMISSION CONTRACTS

§1341. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Commissions. "Commissions" means compensation accruing to a sales representative for payment by a principal, the rate of which is expressed as a percentage of the amount of orders or sales.

2. Principal. "Principal" means a person, partnership, corporation or other business entity that does not have a permanent or fixed place of business in this State and that:

A. Manufactures, produces, imports or distributes a product for wholesale;

B. Contracts with sales representatives to solicit orders for the product; and

C. Compensates the sales representative, in whole or in part, by commission.

3. Sales representative. "Sales representative" means a person who:

A. Contracts with a principal to solicit orders for the purchase at wholesale of the principal's product;

B. Is compensated, in whole or in part, by commission; and

C. Does not place orders or purchase for that person's own account or for resale.

§1342. Notice of termination

Unless a contract between a sales representative and a principal provides otherwise, a party terminating the contract must give the other party 60 days written notice of the termination.

§1343. Contract

If a contract between a sales representative and a principal

2 is terminated, the principal shall pay to the sales  
4 representative all commissions accrued under the contract within  
6 14 days after the effective date of that termination. Any  
8 provision of any contract between a sales representative and a  
10 principal that purports to waive any provision of this chapter is  
12 void.

8 **§1344. Civil liability**

10 1. Principal liability. A principal who fails to comply  
12 with the provisions of section 1343 is liable to the sales  
14 representative in a civil action for exemplary damages in an  
16 amount that does not exceed 3 times the amount of commissions due  
18 the sales representative, plus reasonable attorney's fees and  
20 costs.

18 2. Frivolous action. When the court determines that an  
20 action brought by a sales representative against a principal  
22 under this chapter is frivolous, the sales representative is  
24 liable to the principal for attorney's fees actually and  
26 reasonably incurred by the principal in defending the action and  
28 court costs.

24 3. Other remedies. Nothing in this chapter invalidates or  
26 restricts any other right or remedy available to a sales  
28 representative, or precludes a sales representative from seeking  
30 to recover in one action on all claims against a principal.

30 4. Jurisdiction. A principal who is not a resident of this  
32 State that contracts with a sales representative to solicit  
34 orders in this State is declared to be transacting business in  
36 this State for purposes of the exercise of personal jurisdiction  
38 over nonresidents under chapter 14, section 704-A.

36 **STATEMENT OF FACT**

38 This bill requires a party terminating a contract between an  
40 out-of-state principal and a wholesale sales representative to  
42 give 60 days' written notice to the other party, unless the  
44 contract provides otherwise.

44 This bill also requires that principals promptly pay  
46 commissions owing to wholesale sales representatives following  
the termination of their contracts. The bill provides for the  
payment of triple damages, plus attorney's fees and court costs,  
for the failure to promptly pay post-termination commissions.