

Massachusetts

Chapter 14: Agents, Consignees and Factors

Section 7: Definitions

Section 7. The following terms as used in sections eight and nine, unless the context otherwise requires, shall have the following meanings:

"Commission", compensation accruing to a sales representative for payment by a principal, earned through the last day on which services were performed by the sales representative, the rate of which is expressed as a percentage of the dollar amount of orders or sales.

"Principal", a person who manufactures, produces, imports or distributes a product for wholesale; contracts to solicit orders for such product, and compensates individuals who solicit wholesale orders in whole or in part, by commission.

"Sales representative", a person other than an employee, who contracts with a principal to solicit wholesale orders in the commonwealth and who is compensated, in whole or in part, by commission but shall not include one who places orders or purchases exclusively for his own account for resale.

"Day", any calendar day, including Saturdays, Sundays and legal holidays.

"Termination", the end of services performed by the sales representative for the principal whether by expiration of a contract, discharge or resignation.

Section 8: Contract for services; payment of commissions

Section 8. The terms of the contract between a principal and a sales representative shall determine when a commission shall be due. If the time when such commission shall be due is not specified in a contract, the past practices between the parties shall control or, if there are no such past practices, the custom and usage prevalent in the commonwealth for the business that is the subject of the relationship between the parties shall control. All commissions that are due at the time of termination of a contract between a sales representative and principal shall be paid within fourteen days after the date of termination. Commissions that become due after the termination date shall be paid within fourteen days after the date on which the commissions became due.

Section 9: Liability for failure to pay commissions; jurisdiction; waiver of statutory provisions

Section 9. A principal who wilfully or knowingly fails to comply with provisions relating to the prompt payment of commissions set forth in section eight shall be liable to the sales representative in a civil action for the principal amount of the commissions owed and for an additional sum up to three times the amount of commissions and for reasonable attorney's fees and court costs. A principal who is not a resident of the commonwealth and who enters into a contract subject to the provisions of sections seven to nine shall be deemed to be doing business in the commonwealth for purposes of the exercise of personal jurisdiction over such principal. No provision of sections seven to nine may be waived, whether by express waiver or by an attempt to make a contract or agreement subject to the laws of another jurisdiction. A waiver of any provision of sections seven to nine shall be void.

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter104>