

New York

§ 191-a. Definitions. For purposes of this article the term:

(a) "Commission" means 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 wholesale orders or sales.

(b) "Earned commission" means a commission due for services or merchandise which is due according to the terms of an applicable contract or, when there is no applicable contractual provision, a commission due for merchandise which has actually been delivered to, accepted by, and paid for by the customer, notwithstanding that the sales representative's services may have terminated.

(c) "Principal" means a person or company engaged in the business of manufacturing, and who:

- (1) Manufactures, produces, imports, or distributes a product for wholesale;
- (2) Contracts with a sales representative to solicit orders for the product; and
- (3) Compensates the sales representative in whole or in part by commissions.

(d) "Sales representative" means a person or entity who solicits orders in New York state and is not covered by subdivision six of section one hundred ninety and paragraph (c) of subdivision one of section one hundred ninety-one of this article because he or she is an independent contractor, but does not include one who places orders for his own account for resale.

§ 191-b. Contracts with sales representatives. 1. When a principal contracts with a sales representative to solicit wholesale orders within this state, the contract shall be in writing and shall set forth the method by which the commission is to be computed and paid.

2. The principal shall provide each sales representative with a signed copy of the contract. The principal shall obtain a signed receipt for the contract from each sales representative.

3. A sales representative during the course of the contract, shall be paid the earned commission and all other monies earned or payable in accordance with the agreed terms of the contract, but not later than five business days after the commission has become earned.

§ 191-c. Payment of sales commission. 1. When a contract between a principal and a sales representative is terminated, all earned commissions shall be paid within five business days after termination or within five business days after they become due in the case of earned commissions not due when the contract is terminated.

2. The earned commission shall be paid to the sales representative at the usual place of payment unless the sales representative requests that the commission be sent to him or her through the mails. If the commissions are sent to the sales representative by mail, the earned commissions shall be deemed to have been paid as of the date of their postmark for purposes of this section.

3. A principal who fails to comply with the provisions of this section concerning timely payment of all earned commissions shall be liable to the sales representative in a civil action for double damages. The prevailing party in any such action shall be entitled to an award of reasonable attorney's fees, court costs, and disbursements.

<http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO:>