

Oregon

Chapter 646A — Trade Regulation

## TRADE REGULATIONS AND PRACTICES

(Miscellaneous Sales Transactions)

### **646A.097 Payment of sales commissions following termination of contract between sales representative and principal; definitions; civil action.** (1) As used in this section:

(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 amount of orders or sales or as a specified amount per order or per sale.

(b) “Principal” means a person who does not have a permanent or fixed place of business in this state and who:

(A) Manufactures, produces, imports or distributes a tangible 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.

(c) “Sales representative” means a person who:

(A) Contracts with a principal to solicit wholesale orders;

(B) Is compensated, in whole or in part, by commission;

(C) Does not place orders or purchase for the sales representative’s own account or for resale; and

(D) Does not sell or take orders for the sale of products to the ultimate consumer.

(2) When a contract between a sales representative and a principal is terminated for any reason, the principal shall pay the sales representative all commissions accrued under the contract to the sales representative within 14 days after the effective date of the termination.

(3) A principal who fails to comply with the provisions of subsection (2) of this section is liable to the sales representative in a civil action for:

(a) All amounts due the sales representative plus interest on the amount due at the rate of nine percent per annum until paid; and

(b) Treble damages, if the failure to comply with the provisions of subsection (2) of this section is willful.

(4) The court shall award court costs and attorney fees actually and reasonably incurred by the prevailing party in an action to recover amounts, interest or damages due under subsection (3) of this section.

(5) A nonresident principal who contracts with a sales representative to solicit orders in this state is subject to the jurisdiction of the courts of this state to the extent specified in ORS 14.030.

(6) Any action commenced pursuant to this section must be commenced in the county in which the plaintiff resides at the time the action is commenced or in the county where the cause of action arose.

(7) Nothing in this section shall invalidate or restrict any other or any additional right or remedy available to a sales representative, or preclude a sales representative from seeking to recover in one action all claims against a principal.

(8) A provision in any contract between a sales representative and a principal purporting to waive any provision of this section, whether by expressed waiver or by a contract subject to the laws of another state, shall be void. [Formerly 646.878]

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