

ARIZONA REVISED STATUTES
TITLE 44 – TRADE AND COMMERCE
CHAPTER 11 – REGULATIONS CONCERNING PARTICULAR BUSINESS
ARTICLE 15 – SALES REPRESENTATIVE CONTRACTS

Current through legislation of the Second Regular Session of the Fifty-Sixth Legislature (2024), effective as of June 21, 2024.

Editor’s Notes:

Article 15, Sales Representative Contracts, consisting of §§ 44-1798 to 44-1798.03, was added by Laws 1990, Ch. 179, § 1, effective September 27, 1990.

Former Article 15, Light Pollution, consisting of §§ 44-1798 to 44-1798.05, was transferred for placement in Title 49 and renumbered as Chapter 7, consisting of Article 1, §§ 49-1101 to 49-1106 by Laws 1987, Ch. 317, § 43, effective August 18, 1987, retroactively effective to July 1, 1987.

Section 44- 1798

Definitions.

Effective: September 21, 2006

In this article, unless the context otherwise requires:

1. “Commission” means:

(a) 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.

(b) Any other method of compensation agreed to between a sales representative and a principal, including fees for services and retainers.

2. “Principal” means a person who does all of the following:

(a) Engages in the business of manufacturing, producing, importing, selling or distributing a product or service.

(b) Uses sales representatives to solicit orders for the product or service.

(c) Compensates the sales representative in whole or part by commission.

3. “Sales representative”:

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(a) Means a person who does both of the following:

(i) Establishes a business relationship with a principal to solicit orders for products or services.

(ii) Is compensated, in whole or in part, by commission.

(b) Is not an employee or a person who places orders or purchases on the person's own account or for resale.

4. "Termination" means the end of the business relationship between the sales representative and the principal, whether by agreement, by expiration of time or by exercise of a right of termination by either party.

(Added by Laws 1990, Ch. 171, § 1. Amended by Laws 2006, Ch. 185, §1.)

Section 44-1798.01

Sales representative contract.

Effective: September 21, 2006

A. The sales representative and the principal shall enter into a written contract. The contract shall set forth the method by which the sales representative's commission is to be computed and paid.

B. 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.

(Added by Laws 1990, Ch. 179, § 1. Amended by Laws 2006, Ch. 185, §2.)

Section 44-1798.02

Termination of sales representative contract; payment of earned commissions.

Effective: September 21, 2006

A. If an agreement of services is terminated for any reason both of the following apply:

1. All the commissions due through the time of termination shall be paid to the sales representative within a period of not to exceed thirty days after termination.

2. All the commissions that become due after the effective date of termination shall be paid to the sales representative within fourteen days after they become due.

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B. The principal shall pay the sales representative all commissions due while the business relationship is in effect in accordance with the agreement between the parties.

C. A principal who fails to comply with subsections A and B of this section is liable to the sales representative for damages in the amount of three times the sum of the unpaid commissions owed to the sales representative.

D. The prevailing party in an action brought under this section is entitled to the cost of the suit, including reasonable attorney fees.

E. Commissions shall be paid at the usual place of payment unless the sales representative requests that the commissions be sent by registered mail. If, in accordance with a request by the sales representative, the sales representative's commissions are sent by mail, the commissions are deemed to have been paid as of the date of the registered postmark on the envelope.

F. Unless payment is made pursuant to a binding and final written settlement agreement and release, the acceptance by a sales representative of a commission payment from the principal does not constitute a release as to the balance of any commissions claimed due. A full release of all commission claims that is required by a principal as a condition to a partial commission payment is null and void.

(Added by Laws 1990, Ch. 179, § 1. Amended by Laws 2006, Ch. 185, §3.)

Section 44-1798.03

Revocable offers of commission.

Effective: September 21, 2006

If a principal makes a revocable offer of a commission to a sales representative, the sales representative is entitled to the commission agreed on if all of the following apply:

1. The principal revokes the offer of commission and the sales representative establishes that the revocation was for a purpose of avoiding payment of the commission.
2. The revocation occurs after the principal has obtained an order for the principal's product or service through the efforts of the sales representative.
3. The principal's product or service that is the subject of the order is provided to and paid for by a customer.

(Added by Laws 2006, Ch. 185, §5.)

Section 44-1798.04.

Jurisdiction; no waiver; election of remedies.

Effective: September 21, 2006

A principal who establishes a business relationship with a sales representative to solicit orders for products or services in this state is doing business in this state for purposes of jurisdiction. A provision in a contract between a sales representative and a principal that purports to waive a provision of this article by an express waiver or a contract subject to the laws of another state is void. This section does not invalidate or restrict any other right or remedy available to a sales representative or preclude a sales representative from seeking to recover in one action on all claims against a principal.

(Added by Laws 2006, Ch. 185, §5.)

Section 44-1798.05

Applicability.

Effective: September 21, 2006

This article does not apply to any of the following:

1. An individual or business entity engaged in providing insurance pursuant to title 20.¹
2. A bank, trust company, savings and loan association, credit union, consumer lender or financial institution organized, chartered or holding a license or authorization certificate under the law of this state, any other state, the United States or the parent, subsidiary or affiliate of such entity.
3. A person who holds a real estate salesperson's license pursuant to title 32, chapter 20² and who has a claim for payment of a real estate commission or compensation against the real estate broker with whom such real estate salesperson is affiliated.

(Added by Laws 2006, Ch. 185, §5.)