

NEW JERSEY STATUTES ANNOTATED
TITLE 2A – ADMINISTRATION OF CIVIL AND CRIMINAL JUSTICE (REF & ANNOS)
SUBTITLE 6 – SPECIFIC CIVIL ACTIONS
CHAPTER 61A – SALES REPRESENTATIVES’ RIGHTS

Current with laws through L.2024, c. 16 and J.R. No. 1.

Section 2A:61A-1

Definitions.

Effective: January 13, 2008

As used in this act:

- a. “Commission” means 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 or as a specified amount per order or per sale.
- b. “Principal” means a person, including a person who does not have a permanent or fixed place of business in this State, who manufactures, produces, imports or distributes a product or offers a service; contracts with an independent sales company or other person to solicit orders for the product or service; and compensates those companies or other persons who solicit orders, in whole or in part, by commission.
- c. “Sales representative” means an independent sales company or other person, other than an employee, who contracts with a principal to solicit orders 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.
- d. “Day” means a calendar day including Saturdays, Sundays and legal holidays.
- e. “Termination” means the end of services performed by the sales representative for the principal by any means .
- f. (Deleted by amendment, P.L.2007, c. 289.)

(L.1990, c. 93, § 1, eff. Sept. 7, 1990. Amended by L.2007, c. 289, § 1, eff. Jan. 13, 2008.)

Editors' Notes:

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE STATEMENT

Assembly, No. 2897--L.1990, c. 93

The Senate Labor, Industry and Professions Committee reports favorably and with committee amendments Assembly Bill No. 2897.

This bill concerns certain aspects of the termination of a contractual relationship between a sales representative and a principal who is a person who manufactures, produces, imports or distributes a product for wholesale and who uses sales representatives to solicit wholesale orders on a commission basis.

The bill requires a principal to pay commissions owed to a sales representative within seven days if the sales representative is discharged and within 30 days if the contract is otherwise terminated. For those orders accepted by the principal, delivered and paid for after the end of a sales representative's contract, the commissions are payable within 30 days after payment would have been due under the contract if the contract had not been terminated.

A principal who violates the provisions of this bill is liable to the sales representative for all commissions due, attorneys' fees incurred in the action and court costs. If a sales representative brings a frivolous action against a principal, he is liable to the principal for attorneys' fees and court costs incurred by the principal in defending the action.

The bill applies to any principal, whether in or out of State, who contracts with a sales representative to solicit orders in this State. The bill prohibits the waiver of any provision of the bill by contract.

The committee amended the bill to delete the provision concerning exemplary damages in the penalty section of the bill. The deleted provision provides that a principal who violates the provisions of section 2 of the bill would be liable for exemplary damages of up to twice the amount of the commissions due the sales representative.

Section 2A:61A-2

Termination of contract; earned commissions or other compensation payable.

Effective: January 13, 2008

When a contract between a principal and a sales representative to solicit orders is terminated, the commissions and other compensation earned as a result of the representative relationship and

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unpaid shall become due and payable within 30 days of the date the contract is terminated or within 30 days of the date commissions are due, whichever is later.

A sales representative shall receive commissions on goods ordered up to and including the last day of the contract even if accepted by the principal, delivered, and paid for after the end of the agreement. The commissions shall become due and payable within 30 days after payment would have been due under the contract if the contract had not been terminated.

(L.1990, c. 93, § 2, eff. Sept. 7, 1990. Amended by L.2007, c. 289, § 2, eff. Jan. 13, 2008.)

Section 2A:61A-3.

Liability of principal for violation or noncompliance; liability of sales representative for frivolous action; attorney's fees and costs.

Effective: January 13, 2008

a. A principal who violates or fails to comply with the provisions of section 2 of this act¹ shall be liable to the sales representative for all amounts due the sales representative, exemplary damages in an amount of three times the amount of commissions owed to the sales representative and all attorney's fees actually and reasonably incurred by the sales representative in the action and court costs.

b. Where the court determines that an action brought by a sales representative against a principal pursuant to this section is frivolous, pursuant to P.L. 1988, c. 46 (C.2A:15-59.1), the sales representative shall be liable to the principal for attorney's fees actually and reasonably incurred by the principal in defending the action and court costs.

(L.1990, c. 93, § 3, eff. Sept. 7, 1990. Amended by L.2007, c. 289, § 3, eff. Jan. 13, 2008.)

Section 2A:61A-4

Payment of commissions and other compensation.

The commissions and other compensation shall be paid at the usual place of payment unless the sales representative requests that the commissions and other compensation be sent through first class mail. If, in accordance with a request by the sales representative, the sales representative's commissions and other compensation are sent through the mail, the commissions and compensation shall be deemed to have been paid as of the date of their registered postmark.

(L.1990, c. 93, § 4, eff. Sept. 7, 1990.)

Section 2A:61A-5

Nonresident principal.

A principal who is not a resident of this State who contracts with a sales representative to solicit orders in this State is declared to be doing business in this State for purposes of the exercise of personal jurisdiction.

(L.1990, c. 93, § 5, eff. Sept. 7, 1990.)

Section 2A:61A-6

Waiver of provisions deemed void.

A provision in any contract between a sales representative and a principal purporting to waive any provision of this act, whether by express waiver or by a provision stipulating that the contract is subject to the laws of another state, shall be void.

(L.1990, c. 93, § 6, eff. Sept. 7, 1990.)

Section 2A:61A-7

Additional rights or remedies.

Nothing in this act¹ shall invalidate or restrict any other or additional right or remedy available to a sales representative or principal, or preclude a sales representative from seeking to recover in one action on all claims against a principal, or preclude a principal from seeking to recover in one action on all claims against a sales representative.

(L.1990, c. 93, § 7, eff. Sept. 7, 1990.)

Section 2A:61A-8

Scope of chapter.

Effective: January 13, 2008

The provisions of P.L.1990, c. 93 (C.2A:61A-1 et seq.) shall not apply to:

a. any real estate sales person licensed or regulated pursuant to chapter 15 of Title 45 of the Revised Statutes;

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b. any person licensed or regulated pursuant to subtitle 3 of Title 17 of the Revised Statutes, Title 17B of the New Jersey Statutes or P.L.1973, c. 337 (C.26:2J-1 et seq.); or

c. any person registered or regulated by the New Jersey Bureau of Securities pursuant to the “Uniform Securities Law (1997),” P.L.1967, c. 93 (C.49:3-47 et seq.), or registered or regulated by the Securities and Exchange Commission pursuant to the provisions of the Securities Act of 1933, 15 U.S.C. s.77a et seq., the Securities Exchange Act of 1934, 15 U.S.C. s.78a et seq., the Investment Company Act of 1940, 15 U.S.C. s.80a-1 et seq., or the Investment Advisers Act of 1940, 15 U.S.C. s.80b-1 et seq.

(L.2007, c. 289, § 4, eff. Jan. 13, 2008.)