

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1287

By: Representative Watts

For An Act To Be Entitled

"AN ACT TO ADD A NEW SUBCHAPTER 3 TO CHAPTER 70 OF TITLE 4 OF THE ARKANSAS CODE OF 1987 RELATING TO THE REGULATION OF THE RELATIONSHIP BETWEEN SALES REPRESENTATIVES AND THE REPRESENTATIVE'S PRINCIPAL; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code of 1987, Title 4, Chapter 70, is amended by adding Subchapter 3 to read as follows:

"SUBCHAPTER 3. SALES REPRESENTATIVES.

4-70-301. Definitions.

In this subchapter, unless the context otherwise requires:

(1) 'Commission' means compensation paid a sales representative by a principal in an amount based on a percentage of the dollar amount of certain orders for or sales of the principal's product.

(2) 'Principal' means a person who:

(A) does not have a permanent or fixed place of business in this state;

(B) manufactures, produces, imports, or distributes a product for sale to customers who purchase the product for resale;

(C) uses a sales representative to solicit orders for the product; and

(D) compensates the sales representative in whole or in part by commission.

(3) 'Sales representative' means a person who solicits on behalf of a principal orders for the purchase at wholesale of the principal's product.

4-70-302. Sales Representatives' Contracts.

A contract between a principal and a sales representative under which the sales representative is to solicit wholesale orders within this state must be

in writing and set forth the method by which the sales representative's commission is to be computed and paid. The principal shall provide the sales representative with a copy of the contract. A provision in the contract establishing venue for an action arising under the contract in a state other than this state is void.

4-70-303. Payment in Absence of Contract.

If a compensation agreement between a sales representative and a principal that is not in writing is terminated, the principal shall pay all commissions due the sales representative within thirty working days after the date of the termination.

4-70-304. Jurisdiction.

A principal who is not a resident of this state and who enters into a contract subject to this subchapter is considered to be doing business in this state for purposes of the exercise of personal jurisdiction over the principal.

4-70-305. Waivers Prohibited.

A provision of this subchapter may not be waived, whether by express waiver or by attempt to make a contract or agreement subject to the laws of another state. A waiver of a provision of this subchapter is void.

4-70-306. Damages and Attorney's Fees.

A principal who fails to comply with a provision of a contract under 4-70-302 relating to payment of a commission or fails to pay a commission as required by 4-70-303 is liable to the sales representative in a civil action for three times the damages sustained by the sales representative plus reasonable attorney's fees and costs."

SECTION 2. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.