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HOUSE BILL 2474

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State of Washington

66th Legislature

2020 Regular Session

By Representative Sells

Read first time 01/15/20. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to sales commissions; and amending RCW 49.48.150,  
2 49.48.160, and 49.48.010.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 49.48.150 and 2010 c 8 s 12052 are each amended to  
5 read as follows:

6 Unless the context clearly requires otherwise, the definitions in  
7 this section apply throughout RCW 49.48.160 through 49.48.190.

8 (1) "Commission" means compensation paid a sales representative  
9 by a principal in an amount based on a percentage of the dollar  
10 amount of certain orders for or sales of the principal's product.  
11 Commission includes bonus payments under an incentive compensation  
12 plan or other agreement between a principal and sales representative.

13 (2) "Principal" means a person, whether or not the person has a  
14 permanent or fixed place of business in this state, who:

15 (a) Manufactures, produces, imports, or distributes a product for  
16 sale to customers who purchase the product for resale;

17 (b) Uses a sales representative to solicit orders for the  
18 product; and

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

1 (3) "Sales representative" means a person who solicits, on behalf  
2 of a principal, orders for the purchase at wholesale of the  
3 principal's product, but does not include a person who places orders  
4 for his or her own account for resale, or purchases for his or her  
5 own account for resale, or sells or takes orders for the direct sale  
6 of products to the ultimate consumer.

7 **Sec. 2.** RCW 49.48.160 and 1992 c 177 s 2 are each amended to  
8 read as follows:

9 (1) A contract between a principal and a sales representative  
10 under which the sales representative is to solicit wholesale orders  
11 within this state must be in writing and must set forth the method by  
12 which the sales representative's commission is to be computed and  
13 paid. The principal shall provide the sales representative with a  
14 copy of the contract. A provision in the contract establishing venue  
15 for an action arising under the contract in a state other than this  
16 state, or establishing conditions for payment of a commission  
17 contrary to the provisions of this section, is void.

18 (2) When no written contract has been entered into, any agreement  
19 between a sales representative and a principal is deemed to  
20 incorporate the provisions of RCW 49.48.150 through 49.48.190.

21 (3) (a) During the course of the contract, a sales representative  
22 shall be paid the earned commission and all other moneys earned or  
23 payable in accordance with the agreed terms of the contract, but no  
24 later than thirty days after receipt of payment by the principal for  
25 products or goods sold on behalf of the principal by the sales  
26 representative.

27 (b) Upon termination of a contract, whether or not the agreement  
28 is in writing, all earned commissions due to the sales representative  
29 shall be paid within thirty days after receipt of payment by the  
30 principal for products or goods sold on behalf of the principal by  
31 the sales representative, including earned commissions not due when  
32 the contract is terminated.

33 (c) Where a sales representative's efforts prior to termination  
34 of a contract results in a sale, regardless of when the sale occurs,  
35 the termination may not affect whether a commission is considered  
36 earned.

37 (4) Failure to pay an earned commission is a wage payment  
38 violation under RCW 49.52.050.

1       **Sec. 3.** RCW 49.48.010 and 2010 c 8 s 12047 are each amended to  
2 read as follows:

3       When any employee shall cease to work for an employer, whether by  
4 discharge or by voluntary withdrawal, the wages due him or her on  
5 account of his or her employment shall be paid to him or her at the  
6 end of the established pay period: PROVIDED, HOWEVER, That this  
7 paragraph shall not apply when workers are engaged in an employment  
8 that normally involves working for several employers in the same  
9 industry interchangeably, and the several employers or some of them  
10 cooperate to establish a plan for the weekly payment of wages at a  
11 central place or places and in accordance with a unified schedule of  
12 paydays providing for at least one payday each week; but this  
13 subsection shall not apply to any such plan until ten days after  
14 notice of their intention to set up such a plan shall have been given  
15 to the director of labor and industries by the employers who  
16 cooperate to establish the plan; and having once been established, no  
17 such plan can be abandoned except after notice of their intention to  
18 abandon such plan has been given to the director of labor and  
19 industries by the employers intending to abandon the plan: PROVIDED  
20 FURTHER, That the duty to pay an employee forthwith shall not apply  
21 if the labor-management agreement under which the employee has been  
22 employed provides otherwise.

23       It shall be unlawful for any employer to withhold or divert any  
24 portion of an employee's wages unless the deduction is:

25       (1) Required by state or federal law; or

26       (2) (~~Specifically~~) Except as prohibited under RCW 49.48.160,  
27 specifically agreed upon orally or in writing by the employee and  
28 employer; or

29       (3) For medical, surgical, or hospital care or service, pursuant  
30 to any rule or regulation: PROVIDED, HOWEVER, That the deduction is  
31 openly, clearly, and in due course recorded in the employer's books  
32 and records.

33       Paragraph (~~three~~) two of this section shall not be construed to  
34 affect the right of any employer or former employer to sue upon or  
35 collect any debt owed to said employer or former employer by his or  
36 her employees or former employees.

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