

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2474

66th Legislature
2020 Regular Session

Passed by the House February 16, 2020
Yeas 96 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate March 3, 2020
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2474** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2474

Passed Legislature - 2020 Regular Session

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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