

SENATE BILL REPORT

SB 6120

**AS REPORTED BY COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE,
FEBRUARY 4, 1992**

Brief Description: Regulating the relationship between a sales representative and the representative's principal.

SPONSORS: Senators A. Smith and von Reichbauer

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: That Substitute Senate Bill No. 6120 be substituted therefor, and the substitute bill do pass.

Signed by Senators von Reichbauer, Chairman; Erwin, Vice Chairman; McCaslin, Moore, Owen, Pelz, Rasmussen, Sellar, Vognild, and West.

Staff: Traci Anderson (786-7452)

Hearing Dates: January 23, 1992; February 4, 1992

BACKGROUND:

Sales representatives soliciting wholesale orders for manufacturers, producers, importers or distributors (the principals) of a product who are paid by commission are not covered under current labor laws which regulate the manner in which employees are to be compensated by their employers.

There are reports that principals are hesitant to enter into contracts with sales representatives which outline the methods for computing and paying commissions.

Sales representatives claim that they are often not paid the commission due to them in a timely fashion or, in some cases, are not ever paid the commission due. In such cases, a sales representative may bring a civil suit against the principal for breach of contract.

SUMMARY:

The original bill was not considered.

EFFECT OF PROPOSED SUBSTITUTE:

Requirements for the payment of wages and commissions to sales representatives are provided.

A contract established between a principal and a sales representative working on full or partial commission must be put in writing. The contract must contain a description of the methods by which the representative's commission is to be computed and paid. The sales representative must be given a

copy of the contract. In the event a written contract is not established, any agreement between a sales representative and a principal is judged to incorporate the requirements.

A sales representative must be paid in accordance with the provisions of the contract but no later than 30 days after the principal receives payment for the goods sold by the sales representative.

In the event that a sales representative is terminated by the principal, all earned commissions must be paid within 30 days after the principal receives payment for the goods. Commissions not due at the time the contract is terminated must also be paid within this time period.

A sales representative must be paid at a usual place of payment, unless a specific request is made to have the wages and commissions sent through registered mail.

A principal who is not a resident of this state who enters into a contract with a sales representative is considered to be doing business in this state and would be subject to court action in this state.

The new requirements may not be waived by express waiver or by attempting to establish a contract or agreement subject to the laws of another state.

Persons engaged in home solicitation sales are exempt from the provisions of the bill.

Appropriation: none

Revenue: none

Fiscal Note: requested January 22, 1991

TESTIMONY FOR:

This bill will provide a mechanism which assures that sales representatives receive the commissions due to them.

TESTIMONY AGAINST: None

TESTIFIED: Senator Adam Smith, prime sponsor; Tom Holt