H-3709.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2474**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 66th Legislature 2020 Regular Session**

**By** Representative Sells

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

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

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

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

(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. Commission includes bonus payments under an incentive compensation plan or other agreement between a principal and sales representative.

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

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

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

(c) 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, but does not include a person who places orders for his or her own account for resale, or purchases for his or her own account for resale, or sells or takes orders for the direct sale of products to the ultimate consumer.

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

(1) 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 must 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, or establishing conditions for payment of a commission contrary to the provisions of this section, is void.

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

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

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

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

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

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

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

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

(1) Required by state or federal law; or

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

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

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

**--- END ---**