

Maryland

Article - Labor and Employment

§3-601.

(a) In this subtitle the following words have the meanings indicated.

(b) “Commission” means compensation that:

(1) is due to a sales representative from a principal; and

(2) accrues at:

(i) a specified amount for each order or sale; or

(ii) a rate expressed as a percentage of the dollar amount that a sales representative:

1. takes in orders for the principal;

2. makes in sales for the principal; or

3. earns in profits for the principal.

(c) “Principal” means a sales corporation, partnership, proprietorship, or other business entity that:

(1) distributes, imports, manufactures, or produces a product for wholesale;

(2) enters into a contract with a sales representative to solicit a wholesale order for the product; and

(3) pays the sales representative wholly or partly by commission.

(d) (1) “Sales representative” means a person who:

(i) enters into a contract with a principal to solicit in the State a wholesale order; and

(ii) is paid wholly or partly by commission.

(2) “Sales representative” does not include a person who:

(i) buys a product or places an order for a product for resale by that person; or

(ii) sells or takes an order for the sale of a product to an ultimate buyer.

§3-602.

This subtitle does not apply to an individual who is considered under the Maryland Wage Payment and Collection Law to be employed by a principal.
§3-603.

A provision of a contract that is made between a sales representative and a principal is void if the provision purports to waive any provision of this subtitle by:

- (1) an express waiver; or
- (2) a contract subject to the laws of another state.

§3-604.

Each principal shall pay to a sales representative all commissions that are due under a contract that is terminated, within 45 days after payment would have been due if the contract had not terminated.

§3-605.

(a) (1) Subject to the requirement of paragraph (2) of this subsection, if a principal violates § 3-604 of this subtitle, a sales representative whom the violation affects is entitled to bring an action against the principal to recover up to 3 times the amount of all commissions that the principal owes to the sales representative.

(2) At least 10 days before an action is brought under this subsection, the sales representative shall give the principal written notice of intent to bring the action.

(b) If a court determines that a sales representative is entitled to judgment in an action under this section, the court shall allow against the principal reasonable counsel fees and court costs.

§3-606.

For purposes of personal jurisdiction under § 6-103 of the Courts Article, a principal who contracts with a sales representative to solicit wholesale orders for a product in the State is considered to be transacting business in the State.

§3-607.

(a) If a principal makes a revocable offer of a commission to a sales representative who is not an employee of the principal, the sales representative is entitled to the commission agreed on if:

(1) the principal revokes the offer of commission and the sales representative establishes that the revocation was for the purpose of avoiding payment of the commission; or

(2) (i) the revocation occurs after the sales representative has obtained a written order for the principal's product because of the efforts of the sales representative; and

(ii) the principal's product that is the subject of the order is shipped to and paid for by a

customer.

(b) This section may not be construed to:

- (1) impair the application of § 2-201 or § 2-209 of the Commercial Law Article;
- (2) abrogate any rule of agency law; or
- (3) unconstitutionally impair the obligations of contracts.

§3-608.

(a) Whenever the Commissioner determines that this subtitle has been violated, the Commissioner shall:

- (1) try to resolve any issue involved in the violation informally by mediation; or
- (2) ask the Attorney General to bring an action on behalf of the applicant or employee.

(b) The Attorney General may bring an action under this section in the county where the violation allegedly occurred for injunctive relief, damages, or other relief.

<http://mgaleg.maryland.gov/webmga/frmStatutes.aspx>