

## No. 1998-173

## AN ACT

HB 2703

Amending the act of December 21, 1988 (P.L.1881, No.184), entitled "An act providing for agreements between sales representatives and their principals," further defining "principal"; and further providing for commissions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definition of "principal" in section 1 of the act of December 21, 1988 (P.L.1881, No.184), entitled "An act providing for agreements between sales representatives and their principals," is amended to read:

Section 1. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

"Principal." Any person who **[does not have a permanent or fixed place of business in this Commonwealth and who]** does all of the following:

(1) Engages in the business of manufacturing, producing, importing or distributing a product for sale to customers who purchase such products for resale.

(2) Utilizes sales representatives to solicit orders for such product.

(3) Compensates sales representatives, in whole or in part, by commission.

\* \* \*

Section 2. Sections 3 and 4 of the act are amended to read:

Section 3. Termination.

**[If a contract between a sales representative and a principal is terminated, the principal shall, within 14 days after payment would have been due under the contract if the contract had not been terminated, pay to the sales representative all commissions accrued under the contract.]**  
***A principal shall pay a sales representative all commission due at the time of termination within 14 days after termination.***

Section 4. Commissions on goods delivered after the end of the agreement.

**[Within 14 days after payment would have been due under the contract if the contract had not been terminated, a sales representative shall also receive commissions on goods ordered prior to termination, but shipped thereafter.]**  
***A principal shall pay a sales representative all***

*commissions that become due after termination within 14 days of the date such commissions become due.*

Section 3. The act is amended by adding a section to read:

***Section 5.1. When commissions become due.***

***(a) Contract.—The terms of the contract, whether or not in writing, between the principal and sales representative shall determine when commissions become due.***

***(b) Custom and usage.—If the time when commissions become due cannot be determined by a contract between the principal and sales representative, the past practices of the parties shall control, or, if there are no past practices, the custom and usage prevalent in this Commonwealth for the business that is the subject of the relationship between the parties shall control.***

Section 4. This act shall take effect January 1, 1999.

APPROVED—The 21st day of December, A.D. 1998.

THOMAS J. RIDGE