

Commission Protection Chart (July 1, 2007)

STATE	CP STAT	PENDING LEGISLATION	CITED CASE LAW	NOTABLE CASE LAW
Alabama	Yes	No	Yes, Updated	Yes
Alaska	No	No	N/A	N/A
Arizona	Yes	No	No	No
Arkansas	Yes	No	No	No
California	Yes	No	Yes	No
Colorado	Yes	No	Yes	No
Connecticut	Yes	No	No	No
Delaware	No	No	N/A	N/A
Florida	Yes	No	Yes	No
Georgia	Yes	No	Yes	Yes
Hawaii	No	No	N/A	N/A
Idaho	No	No	N/A	N/A
Illinois	Yes	No	Yes	Yes
Indiana	Yes	No	Yes	Yes
Iowa	Yes	No	Yes	No
Kansas	Yes	No	Yes	Yes
Kentucky	Yes	No	Yes	Yes
Louisiana	Yes	No	Yes	No
Maine	Yes	No	Yes	No
Maryland	Yes	No	Yes	No
Massachusetts	Yes	No	Yes	Yes
Michigan	Yes	No	Yes	Yes, New
Minnesota	Yes, Revised	No	Yes	Yes, New
Mississippi	Yes	No	Yes	No
Missouri	Yes	No	Yes	Yes
Montana	No	No	N/A	N/A
Nebraska	Yes, Revised	No	Yes	No
Nevada	No	No	N/A	N/A
New Hampshire	Yes	No	Yes	Yes
New Jersey	Yes	No	Yes	Yes
New Mexico	No	No	N/A	N/A
New York	Yes	No	Yes	Yes
North Carolina	Yes	No	Yes	No
North Dakota	No	No	N/A	N/A
Ohio	Yes	No	Yes, New	Yes, New
Oklahoma	Yes	No	No	No
Oregon	Yes	No	No	No
Pennsylvania	Yes	No	Yes	Yes
Rhode Island	No	No	N/A	N/A

South Carolina	Yes	No	Yes, New	Yes
South Dakota	No	No	No	No
Tennessee	Yes	No	Yes	No
Texas	Yes	No	Yes	Yes
Utah	Yes	No	N/A	N/A
Vermont	No	No	N/A	N/A
Virginia**	Yes	No	No	No
Washington**	Yes	No	No	No
West Virginia	No	No	N/A	N/A
Wisconsin	Yes	No	Yes	Yes
Wyoming	No	No	N/A	N/A



Synopsis of State Laws Regulating Manufacturer and Representative Agreements

Information as of June 9, 2005. This list is provided for information only and is not a legal opinion. NEMRA makes no claim as to its completeness or accuracy. If questions arise, members are directed to contact a practicing attorney in the state in question.

Alabama

Time limit to pay commissions:	Within 30 working days after termination if there is no written greement.
Penalty for non-compliance:	Triple damages plus reasonable attorney's fees and costs.
Is a written contract required?	Yes.
Legal reference:	Code of Alabama, Vol. 6, Sections 8-24-1 through 8-24-5.

Arkansas

Time limit to pay commissions:	Within 30 working days after termination if there is no written agreement.
Penalty for non-compliance:	Liable in a civil action for three times damages sustained by the sales representative plus attorney's fees and costs.
Is a written contract required?	Yes.
Legal reference:	Arkansas Code, Sections 4-70-301 through 4-70-306.

Arizona

Time limit to pay commissions:	All commissions earned and unpaid through the time of termination are due within 30 days of termination. Commissions due for all orders placed but delivered after termination.
Penalty for non-compliance:	Damages plus attorney's fees and court costs.
Is a written contract required?	Yes, if requested by either party.
Legal reference:	Arizona revised statutes, Title 44, Chapter 11, Article 15, 44-1798.

California

Time limit to pay commissions:	As specified in a written contract.
Penalty for non-compliance:	Liable in a civil action for treble damages, plus attorney's fees and court costs.
Is a written contract required?	Yes - no exceptions
Legal reference:	State of California Civil Code Title 1A, Section 1738.10 - 1738.17, Part 4, Division 3

Colorado

Time limit to pay commissions:	As specified in a written contract.
Penalty for non-compliance:	Liable in a civil action for treble damages, plus attorney's fees and court costs.
Is a written contract required?	No.
Legal reference:	Colorado Revised Statutes Title 12, Section 12-66-101 thru 103

Connecticut

Time limit to pay commissions:	By the date specified in the written contract or 30 days after termination, which ever is later.
Penalty for non-compliance:	Liable in a civil action for twice the full amount of commissions owed. The prevailing party shall be entitled to reasonable attorney's fees and court costs.
Is a written contract required?	No. However if a written demand for post-termination commissions is made by certified mail and the principal fails to respond in 30 days, it shall be evidence that such principal acted willfully and in bad faith.
Legal reference:	State of Connecticut Public Act 05-166

Florida

Time limit to pay commissions:	Within 30 days after termination of the contract.
Penalty for non-compliance:	Commission amount plus exemplary damages up to three times the commissions owed. The prevailing party in any such action is entitled to an award of reasonable attorney's fees and court costs.
Is a written contract required?	Yes.
Legal reference:	Official Florida Statutes, Section 686.201

Georgia

- Time limit to pay commissions:** Within 14 days if there is no written contract; within the time frame of the agreement if there is a written contract.
- Penalty for non-compliance:** Commission amount plus exemplary damages up to two times the commission amount and reasonable attorney’s fees.
- Is a written contract required?** Yes.
- Legal reference:** Official Code of Georgia Annotated, Article 24, Sections 10-1-700 through 10-1-704

Illinois

- Time limit to pay commissions:** Within 13 days of termination or 13 days when commissions are earned.
- Penalty for non-compliance:** Up to three times the commission amount plus reasonable attorney’s fees and court costs.
- Is a written contract required?** No.
- Legal reference:** Illinois Compiled Statutes, 820 ILCS 120/0.01 through 820 ILCS 120/3

Indiana

- Time limit to pay commissions:** Within 14 days after payment would have been due under the contract.
- Penalty for non-compliance:** Exemplary damages up to three times the sum of the commission owed; plus reasonable attorney’s fees and costs. If the court finds the sales rep’s action is frivolous, the rep is liable for attorney’s fees and court costs.
- Is a written contract required?** No.
- Legal reference:** Indiana Code, Sections 24-4-7-1 through 24-4-7-8.

Iowa

- Time limit to pay commissions:** Within 30 days after commissions earned. Upon termination within 30 days after termination.
- Penalty for non-compliance:** Commissions due plus liquidated damages (5% of commission due x number of days past due) including court costs and attorney’s fees.
- Is a written contract required?** No.
- Legal reference:** Code of Iowa, Chapter 91A, Sections 91A.1 through 91A.13.

Kansas

Time limit to pay commissions:	Within 30 days after commissions are earned.
Penalty for non-compliance:	The commission amount plus damages of 1% of the unpaid commissions for each day (except Sundays and legal holidays) the commission remains unpaid or an amount equal to the commissions due, whichever is less.
Is a written contract required?	No.
Legal reference:	Kansas Statutes Annotated. Chapter 44, Article 3, Sections 44-341 through 44-347.

Kentucky

Time limit to pay commissions:	Within 30 days after the effective date of termination.
Penalty for non-compliance:	Commission due plus exemplary damages two times commissions due plus attorney's fees and court costs. If the court finds the sales rep's action is frivolous, the principal will be awarded court costs and attorney's fees.
Is a written contract required?	No.
Legal reference:	Kentucky Revised Statutes, Chapter 371. Sections 371.370-371.375 and 371.380-371.385.

Louisiana

Time limit to pay commissions:	As specified in the written agreement. If there is no written contract all commissions due must be paid no later than the thirty working days after termination.
Penalty for non-compliance:	Triple damages plus attorney's fees and costs.
Is a written contract required?	No - But if you have a written contract it must set forth the method of commission computation and payment, and the representative must be given a copy.
Legal reference:	Louisiana Revised Statutes, Title 51, R.S. 51:441 through 445.

Maine

Time limit to pay commissions:	Within 30 days of the effective date of termination.
Penalty for non-compliance:	Exemplary damages not to exceed three times the amount of commissions due plus attorney's fees and court costs. If the court finds the sales representative's action was frivolous, the sales representative will be liable to the principal for reasonable attorney's fees and court costs.
Is a written contract required?	No.
Legal reference:	Maine Revised Statutes Annotated, Section 1341-1344, Title 10, Part 3, Chapter 210A.

Maryland

Time limit to pay commissions:	Within 45 days after payment would have been due if the contract had not been terminated.
Penalty for non-compliance:	Exemplary damages not to exceed three times the commissions owed plus court costs provided the principal is furnished 10 days prior written notice of intent to file civil action for exemplary damages.
Is written contract required?	No.
Legal reference:	Maryland Code (Labor and Employment Article) 3-601A through 3-607.

Massachusetts

Time limit to pay commissions:	Within seven days after termination or expiration of the agreement; or within 14 days for goods shipped after termination or expiration of the agreement.
Penalty for non-compliance:	Up to three times the amount of commissions plus attorney's fees and court costs.
Is a written contract required?	Yes, but only if either party requests it.
Legal reference:	Massachusetts General Laws Annotated, Chapter 104, Sections 7 through 9.

Michigan

Time limit to pay commissions:	When due by contract or within 45 days after termination.
Penalty for non-compliance:	Actual damages plus if found to have intentionally failed to pay, an amount equal to two times the commission due, not to exceed \$100,000; plus attorney's fees and court costs to the prevailing party.
Is a written contract required?	No.
Legal reference:	Michigan compiled laws section 600.2961

Minnesota

Time limit to pay commissions:	Within three working days of the salesperson's last day of work.
Penalty for non-compliance:	Commission amount plus 1/15th of commission for every day of non-payment up to 15 days; plus reasonable attorney's fees.
Is a written contract required?	No.
Legal reference:	Minnesota Statutes 1988, Chapter 181. Sections 181.13, 181.14 and 181.145. <i>and</i> Minnesota Statutes 1990, Regulation of trade practices Section 325E.37
Special Note:	Minnesota also requires 90 days written notice for termination of representative contracts made after August 1, 1990. The notice must include reasons for non-renewal and 60 days must be allowed to correct any deficiencies. There are penalties for non-compliance but they must be settled by arbitration and cannot be pursued in a court of law.

Mississippi

Time limit to pay commissions:	Within 21 days after the effective date of termination.
Penalty for non-compliance:	Up to triple the commission due plus reasonable attorney's fees and costs.
Is a written contract required?	No.
Legal reference:	Mississippi Code, Title 75, Sections 75-87-1, 75-87-3, 75-87-5, and Notes.

Missouri

Time limit to pay commissions:	When the contract is terminated, within 14 days for all commissions presently due and within 14 days after the date of termination when due.
---------------------------------------	--

(Note: Commissions are deemed due as specified in the written agreement. If there is no written agreement, all commissions due must be paid as per the past practice between the parties. If past practice cannot be used to clearly ascertain when the commission becomes due, then the commission shall be due on the date the principal accepts the order unless the custom and usage prevalent in the state for the parties' particular industry is different, in which event such custom and usage shall prevail.)

Penalty for non-compliance:	Commission due, an additional amount as if the sales representative were still earning commissions calculated on an annualized pro rata basis from the date of termination to the date of payment, and reasonable attorney's fees and costs.
Is a written contract required?	No.
Legal reference:	Revised Statutes of Missouri 506.500, Section 407.911 through 407.915.

Nebraska

Time limit to pay commissions:	On all orders delivered and all orders on file with the employer at the time of termination of employment less any orders returned or canceled at the time suit is filed.
Penalty for non-compliance:	An amount equal to the judgment, but if nonpayment of commissions is found to be willful, an amount equal to two times the amount of unpaid commissions.
Is a written contract required?	No.
Legal reference:	Nebraska Revised Statutes, Section 48-1228 through 48-1232.

New Hampshire

Time limit to pay commissions:	All commissions must be paid within 45 calendar days of termination.
Penalty for non-compliance:	In a civil action damages plus up to three times exemplary damages, plus attorney's fees and court costs.
Is a written contract required?	Yes.
Legal reference:	State of New Hampshire revised statutes annotated Section 339, E1 through E4. (Title XXXI, Chapter 339-E).

New Jersey

Time limit to pay commissions:	Commissions earned and due are payable within seven days of termination. All other commissions must be paid within 30 days after payment would have been due if the contract had not been terminated.
Penalty for non-compliance:	Amount due representative plus attorney's fees and court costs. If the court finds the sales rep's action frivolous, the principal will be awarded attorney's fees and court costs.
Is a written contract required?	No.
Legal reference:	New Jersey Statutes 2A:61A-1 (Title 2A, Subtitle 6, Chapter 61A).

New York

Time limit to pay commissions:	Within five business days after termination or when the commission is earned.
Penalty for non-compliance:	Two times the commission amount; plus reasonable attorney's fees, court costs and disbursements.
Is a written contract required?	Yes.
Legal reference:	New York consolidated laws, Sections 191-a, 191-b, and 191-c. (Labor law, Article 6)

North Carolina

- Time limit to pay commissions:** All commissions due must be paid within 30 days of the effective date of termination. All commissions that become due after the effective date of termination must be paid within 14 days after they become due.
- Penalty for non-compliance:** In a civil action all commission due, plus exemplary damages not to exceed three times all commissions due, plus attorney's fees and court costs. If the court finds the sales rep's action frivolous, the rep is liable for attorney's fees and court costs.
- Is a written contract required?** Yes.
- Legal reference:** General statutes of the State of North Carolina Chapter 66, Section 190 through 193.

Ohio

- Time limit to pay commissions:** Must be specified in written contract. If there is no written contract the usual and customary practice between principals and reps shall prevail. Upon termination all commissions due must be paid within 13 days or within 13 days after they become due.
- Penalty for non-compliance:** Liable in civil action for triple damages plus reasonable attorney's fees and costs.
- Is a written contract required?** No, but strongly recommended.
- Legal reference:** Ohio Revised Code, Section 1335.11.

Oklahoma

- Time limit to pay commissions:** Within 14 days of termination plus commissions due after termination must be paid within 14 days of the date on which they become due.
- Penalty for non-compliance:** Commissions due plus attorney's fees and court costs to the prevailing party.
- Is a written contract required?** No.
- Legal reference:** Oklahoma Statutes, Section 625-679 title 15.

Oregon

- Time limit to pay commissions:** Within 14 days after the effective date of termination.
- Penalty for non-compliance:** All amounts due, plus interest at the rate of 9% per annum. Triple damages if the failure to comply is willful, plus attorney's fees and court costs.
- Is a written contract required?** No.
- Legal reference:** Oregon Revised Statutes, 646.878 (Title 50, Chapter 646).

Pennsylvania

- Time limit to pay commissions:** On termination within 14 days after payment would have been due if the contract had not been terminated. Goods ordered prior to termination but shipped after termination within 14 days after payment would have been due.
- Penalty for non-compliance:** In a civil action for all commissions plus exemplary damages not to exceed two times the commissions due plus reasonable attorney and court costs. If the court finds the action frivolous, the principal can be awarded attorney’s fees and court costs.
- Is a written contract required?** Yes - This law applies to all current at will contracts and to all contracts entered into or renewed after the effective date.
- Legal reference:** Pennsylvania Statutes 43 P.S., 1471-1478, Chapter 27.

Puerto Rico

- Time limit to pay commissions:** Immediate upon termination for just cause. If termination is for other than just cause, payment amounts in terms are to be determined in accordance with the referenced statute.
- Penalty for non-compliance:** Up to 52% of the total sales volume of the product for the years in which the representative was retained by the principal.
- Is a written contract required?** No.
- Legal reference:** Act No. 21 (S.B. 793) of the 4th Session of the 11th Legislature of the Commonwealth of Puerto Rico, December, 1990.

South Carolina

- Time limit to pay commissions:** As required by contract or upon termination if there is no written contract.
- Penalty for non-compliance:** Liable in a civil action for all amounts due sales representative plus punitive damages not to exceed three times the commissions due plus attorney’s fees and court costs. If the court finds the sales rep’s action is frivolous, the principal will be awarded court costs and attorney’s fees.
- Is a written contract required?** No.
- Legal reference:** South Carolina Statutes, Sections 39-65-10 through 39-65-80.

Tennessee

Time limit to pay commissions:	Within 14 days of the salesperson's termination.
Penalty for non-compliance:	Up to three times the commission amount; plus reasonable attorney's fees and court costs.
Is a written contract required?	No.
Legal reference:	Tennessee Code Annotated, Section 47-50-114.

Texas

Time limit to pay commissions:	Must be specified in written contract. If there is no written contract all commissions due shall be paid within 30 working days after termination date.
Penalty for non-compliance:	Liable in a civil action for three times the unpaid commissions plus reasonable attorney's fees and costs.
Is a written contract required?	Yes.
Legal reference:	Texas Business and Commerce Code Annotated, Sections 35.81 through 35.86.

Virginia

Time limit to pay commissions:	Time limits to pay commissions - as specified in the written agreement, but must be paid within 30 days from termination.
Penalty for non-compliance:	None specified.
Is a written contract required?	Yes.
Legal reference:	Code of Virginia annotated Title 59.1, 455 through 59.1-459, Chapter 37.

Washington

Time limit to pay commissions:	When normally due under contract if written or reasonable and customary if a verbal agreement, but no later than 30 days after the manufacturer is paid. Upon termination, all commissions due plus those earned but not due, must be paid within 30 days of termination.
Penalty for non-compliance:	None specified.
Is a written contract required?	Yes.
Legal reference:	Revised code of the State of Washington, Title 49; 48.150 through 48.190.

Wisconsin

- Time limit to pay commissions:** When due under contract or when normally due under past practice if there is no contract.
- Penalty for non-compliance:** Commission due, plus actual damages, plus exemplary damages of not more than 200% of the commission due, plus attorney's fees and court costs.
- Is a written contract required?** No.
- Legal reference:** Laws of the State of Wisconsin, Section 184.98 and Section 895.85.
- Special Note #1:** A principal shall provide 90 days prior written notice of any termination, non renewal or substantial change in the contract.
- Special Note #2:** This law is effective April 24, 1998 and applies only to agreements made, renewed, extended or modified on or after the effective date.