Get Your Acts Together, Act VIII: The Illinois Sales Representative Act

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Are you an Illinois employer who sells something? Using people? If so, let me direct your attention to ISRA, or the Illinois Sales Representative Act.

What IS ISRA?

ISRA requires that sales representatives be paid their commission due within 13 days of termination or, if not yet due at the time of termination, within 13 days of the commission becoming due.

Who's covered?

Per ISRA, a "sales representative" is a person who contracts with a principal to solicit orders and who is compensated, in whole or in part, by commission. They are not employees of your company, but independent contractors.

If you are a sole proprietorship, partnership, corporation or other business entity *whether or not* you have a permanent or fixed place of business in Illinois, and you manufacture, produce, import, or distribute a product for sale, contract with a sales representative to solicit orders for the product, and compensate the sales representative in whole or in part by commission, you are covered.

How do Company's comply?

ISRA is a short and sweet statute: it exists to ensure that sales representatives are compensated for their work through timely payment of their commissions. Simply put, ISRA requires that commission be paid per the terms of the contract. Sounds easy, right? It is, *unless you fail to execute a contract.* If there is no contract, ISRA requires that commission be paid per past practices used by the parties. If, say, you're a start up, and there are no past practices to reference, ISRA requires the Courts to use the "custom and usage prevalent in this State for the parties' particular industry." **If you don't want your Company's terms to be dictated by what other companies in your industry agreed to in the past, you need to draft a clear contract with your sales representatives.**

What happens if I don't comply with ISRA?

ISRA is a powerful tool for sales representatives to collect commissions owed. If you are sued under ISRA, and you lose, you will be on the hook for the Plaintiff's costs and attorney's fees. Moreover, Illinois courts have held that the Act's exemplary damage provision, which provides for *treble damages* (that's 3x the amount of commission owed), may be enforced against

Companies whose failure to comply was willful and wanton. Staebell v. L'amour Hosiery, Inc., 2002 U.S. Dist. LEXIS 11030 (N.D. IL. June 18, 2002).

#ISRA #sales #employment #illinois #commission #contract