

ATTENTION EMPLOYERS OF COMMISSIONED SALESPERSONS

Labor & Employment Alert
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Amendments to the New York Labor Law have established important new requirements for all employers of commissioned sales employees in New York.

As of October 16, 2007, Labor Law § 191(c) requires a detailed written agreement with individuals employed as commissioned salespersons. The written agreement must be signed by both the employer and the commissioned salesperson, kept on file by the employer for three years, and made available to the New York State Department of Labor upon request. The law requires the written agreement include, at minimum, the following:

- A description of how **all** compensation earned and payable will be calculated (including wages, salary, drawing account, and commissions);
- Details about the payment of all earned compensation in the event the salesperson is terminated or resigns; and
- The frequency of reconciliation of any recoverable draw.

Importantly, if an employer fails to comply with the new written agreement requirements, the commissioned salesperson's description of the terms of employment will be presumed to be accurate. Failure to have commissioned salesperson agreements in writing could be very costly.

For additional information or advice on compliance with the new commissioned salesperson law, please contact the Hodgson Russ labor and employment attorney with whom you regularly work or:

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