

# STATE OF NEW YORK

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5140

2023-2024 Regular Sessions

## IN SENATE

February 23, 2023

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Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to clarifying the definition of a "commission salesperson"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 6 of section 190 of the labor law, as added by  
2 chapter 548 of the laws of 1966, is amended to read as follows:

3 6. "Commission salesman" means any employee (a) whose principal activ-  
4 ity is the selling of any goods, wares, merchandise, services, real  
5 estate, securities, insurance or any article or thing and whose earnings  
6 are based in whole or in part on commissions, (b) not free to work at  
7 his or her own convenience or discretion, (c) constrained to a fixed  
8 schedule, (d) not free to engage in other employment and (e) on the  
9 employer's payroll and receives fringe benefits. The term "commission  
10 salesman" does not include an employee whose principal activity is of a  
11 supervisory, managerial, executive or administrative nature.

12 § 2. This act shall take effect immediately.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD07200-01-3