HOUSE DOCKET, NO. 4921 FILED ON: 3/5/2020

# HOUSE . . . . . No. 4754

## The Commonwealth of Massachusetts

PRESENTED BY:

***Bradley H. Jones, Jr.***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to commissioned employees.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|---|---|---|
| *Bradley H. Jones, Jr.* | *20th Middlesex* | *3/5/2020* |

HOUSE DOCKET, NO. 4921 FILED ON: 3/5/2020

# HOUSE . . . . . No. 4754

By Mr. Jones of North Reading, a petition (subject to Joint Rule 12) of Bradley H. Jones, Jr., relative to employment rights and protections for certain commissioned employees. Labor and Workforce Development.

## The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court**
**(2019-2020)**

An Act relative to commissioned employees.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. The second paragraph of clause (50) of section 6 of chapter 136 of the General Laws, as so appearing, is hereby amended by inserting in lines 164, 181, 198 and 215, after the word "week," each time it appears, the following words:- or a commissioned employee who satisfies either the requirements of sections 207(i) or 213(b)(10)(A) of the federal Fair Labor Standards Act, 29 USC §§ 201-219.

SECTION 2. The second paragraph of section 13 of said chapter 136, as so appearing, is hereby amended by inserting in line 13, after the word "contract," the following words:- excepting a commissioned employee who satisfies either the requirements of sections 207(i) or 213(b)(10)(A) of the federal Fair Labor Standards Act, 29 USC §§ 201-219.

SECTION 3. The second paragraph of section 16 of said chapter 136, as appearing in the 2018 Official Edition, is hereby amended by inserting in line 16, after the word "week," the

following words:- or a commissioned employee who satisfies either the requirements of sections 207(i) or 213(b)(10)(A) of the federal Fair Labor Standards Act, 29 USC §§ 201-219.

SECTION 4. Section 150 of chapter 149 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:- An employer shall not be subject to any liability or punishment for or on account of its failure to pay for work on a Sunday or a recognized holiday under sections 6, 13 or 16 of chapter 136, if the employer pleads and proves by a preponderance of the evidence that it acted in good faith in conformity with a written opinion letter of the department or of an agency of the commonwealth which has or had at the time the authority to administer or interpret said law. Such a defense, if established, shall be a bar to the action if the administrative interpretation was in effect at the time of the violation, even if it is later modified, rescinded, or determined by judicial authority to be invalid or of no legal effect. For purposes of this paragraph, the term "employer" shall extend to the persons described in the sixth paragraph of section 148.

SECTION 5. Subparagraph (4) of section 1A of chapter 151 of the General Laws, as so appearing, is hereby amended by adding the following words:- or as an inside salesperson who is a commissioned employee who satisfies either the requirements of sections 207(i) or 213(b)(10)(A) of the federal Fair Labor Standards Act, 29 USC §§ 201-219.

SECTION 6. The first paragraph of section 1B of said chapter 151, as so appearing, is hereby amended by inserting after the second sentence the following two sentences:- An employer or the officer or agent of any domestic or foreign corporation shall not be subject to any liability or punishment for or on account of its failure to pay overtime compensation in violation of this section if the employer or the officer or agent of any such corporation pleads and

proves by a preponderance of the evidence that it acted in good faith in conformity with a written opinion letter of the department or of an agency of the commonwealth which has or had at the time the authority to administer or interpret said law. Such a defense, if established, shall be a bar to the action if the administrative interpretation was in effect at the time of the violation, even if it is later modified, rescinded, or determined by judicial authority to be invalid or of no legal effect.

SECTION 7. Sections 1, 2, 3 and 5 shall take effect upon enactment.

SECTION 8. Sections 4 and 6 shall be effective for all causes of action accruing before, on, or after the date of enactment, including any cause of action now pending.