

**LAW NO. 173 FOR THE PROTECTION OF AGENT IMPORTERS OF
MERCHANDISE AND PRODUCTS**

(Official Gazette No. 8979, Dated April 1966)

Whereas, the State cannot remain indifferent to the growing number of cases in which an entity or person from abroad, without a just cause, eliminate their licensees or agents as soon as these have created a favorable market in the Dominican Republic, without taking into consideration their legitimate interests.

Whereas, it is necessary to adequately protect the persons or entities who promote and arrange the importation, distribution, sale, lease or any other type of exploitation of merchandise or products in the Dominican Republic that originate from abroad or when these products are manufactured in the country, acting as agents or under any other denomination, against damages that could cause the unjust termination of the relationships in virtue of which they exercise these activities, by the unilateral action of persons or entities who they represent or on whose account or interest they act in, with the purpose of obtaining the equitable and complete compensation of all the losses sustained by them, as well as the perceivable profits of which they are being deprived of.

Viewed, Article 2 of the Institutional Act.

Has issued the following law on the protection of agent importers of merchandise and products:

Article 1. Definitions:

For the purpose of this Law, the following terms shall have the indicated meaning, except when the context of the term clearly expresses otherwise:

a) *Licensee*: Person or entity who, in the Dominican territory, promotes or negotiates the importation, distribution, sale of products or services, leases or any other form of trade, exploits merchandise or products originating from abroad as well as the services related with said arrangements or when these are manufactured in the Dominican Republic, whether said person or entity acts as an agent, representative, a commission agent, licensee, or under any other denomination.

b) *License Agreement*: Any form of established relations between a Licensee and a Licensor where the first party dedicates himself in the Dominican Republic to the activities provided for in section a) of this Article.

c) *Licensor*: Person or entity whom the Licensee represents, or acts in behalf of, or in interest of the merchandise, products, or services of the Licensor, performing the activities previously mentioned, either when the License Agreement has been directly granted by Licensor, or through the intervention of any other persons or firms acting in representation of the Licensor, but always on

behalf of the Licensor or his merchandise, products or services.

d) *Just Cause*: Lack of compliance of any of the essential obligations of the License Agreement, any action or omission that could adversely affect in a substantial way the interest of the Licensor in the promotion or negotiation of the import, distribution, sale, lease, or any other form of trade of his merchandise, products or services.

Article 2. Even when the License Agreement contains a clause in which the parties unilaterally reserved the right to terminate the agreement, the Licensor may not terminate nor refuse to renew the agreement at the termination date, unless a Just Cause exists.

Article 3. Every Licensee shall have the right to bring a claim against the Licensor in case of the Licensee's destitution, substitution or termination of the License Agreement existing between them, or due to the Licensor's unilateral refusal to renew said agreement without a just cause, for the complete and just indemnification of the damages caused by the termination, which amount shall be determined based on the following factors:

a) All losses perceived by the Licensee, specifically, the personal efforts employed by the same for the exclusive benefit of the business he is deprived of, including the expenses established by the Labor Laws.

b) The present value of the investment made in the acquisition or lease and the adjustment of property, equipment, installations, furniture and fixtures, if these were only used for the business of which the Licensee is deprived of.

c) The value of the promotion of the services developed for the prestige of the agent, the merchandise, products, parts, spare parts and accessories that the Licensee has in stock and from which sale, lease or negotiation he shall not benefit from; this value shall be determined by the acquisition and transportation to establishment cost, plus taxes, charges, expenses, and any other, that said object would have generated to end up in the Licensee's possession; and

d) The gross profit obtained by Licensee from the sale of merchandise, products or services during the last five years, and in case of not reaching the five years, five times the annual average gross profit obtained during the last years, whichever they are. In case the Licensee had represented the Licensor for more than 5 years, the latter shall have to pay the amount resulting from the multiplication of the number of years in excess of five years, by the tenth part of the average gross profit obtained by the Licensee during the last five years of representation.

Article 4. If the Licensor decides to manufacture, elaborate or pack the products referred to by this Law, or to establish his own offices for the sale of those services which compete with those of his agents in the Dominican Republic, the Licensor shall be equally obliged to compensate the Licensee in the way established in Article 3 of this Law, in case the License Agreement is terminated by one of the causes listed in said article.

Article 5. Every License Agreement granting the Licensee the exclusive representation of the Licensor, includes merchandise or products of foreign origin as well as the foreign services destined for the Dominican Republic and vice versa, or originating from the Dominican Republic and destined to the same territory.

Article 6. All persons or entities, national or foreign, associated with the author of the destitution, substitution or termination of the License Agreement, who refused to renew the agreement unilaterally and without a just cause, and who substitutes the Licensee, shall be held jointly liable for the compensation payment that may be agreed.

Paragraph. The person or entity, national or foreign, who has by any means obtained the rights over the merchandise, products or services of the Licensor, shall be held liable for such action, as well as the persons substituting the Licensee.

Article 7. The actions exercised in conformity with the present law will be governed by the provisions of the common civil law, specifically, those matters concerning jurisdiction, procedure and statute of limitation. Furthermore, such actions will be subject to the following provisions:

Paragraph I. In order to exercise a legal action, the Licensee or the Licensor shall previously request the Chamber of Commerce and Production of their jurisdiction its intervention to try to settle amicably the interests of the parties. Within three days of receiving such request, the President of the Chamber shall designate a Conciliatory Commission who will be integrated by three of its members and who will, in a three day term, convene the parties in the to attend the conciliatory meeting. Such notice shall be delivered by a bailiff and shall indicate the date, location and time of the conciliation as well as the purpose of the conciliation. Between the day of the notice and the day of the conciliation, a term of no less than eight days (not including the date of the notification and the last day) and no more than thirty days shall be given, which term could be extended due to the distance, in accordance to the provisions set forth in the amended Article 73 of the Civil Procedure Code.

Paragraph II. The parties shall attend the meeting personally, or by means of their counsel or proxies which may be assisted by their counsels. They parties shall supply the documents and arguments they judge pertinent or those requested by the Commission to allow for a more effective conciliation and thus submit to the parties the recommendations and advice considered pertinent. If the parties or one of the parties does not attend the meeting after having been duly notified, or if the parties do not reach an agreement, then a Minutes of No Agreement or Nonattendance shall be executed, whose copy shall be filed with the judicial claim; if the minutes is not filed with the claim, the claim may be rendered null.

Paragraph III. If the parties reach an agreement, a minutes shall be executed containing the names, personal identification numbers and any other personal information of the Licensor, the Licensee and, if applicable, the counsel or proxies that attended the conciliation, as well as a detailed report including all the clauses of the agreement. This document shall be signed by all the persons present

in the conciliation.

Paragraph IV. If there is no Chamber of Commerce and Production in the jurisdictional province of the Licensee, the parties may proceed, solely for conciliatory purposes, before the nearest Chamber of Commerce and Production. In order to appear before the previously mentioned Chamber of Commerce and Production, the Licensee is not required to be a member of same.

Paragraph V. The notice to attend the before mentioned conciliatory meeting shall be made at the request of the members of the Commission and it shall indicate the conditions by which they act; and the expenses arising from said conciliatory meeting shall be paid by the party requesting the service when the request is made.

Paragraph VI. The judicial decision pronounced by the First Instance Court and the Court of Appeals that originate from the Article 3 of the present Law, will not be susceptible to opposition claim.

Paragraph VII. The term for filing an appeal claim before the Court of Appeals or the Supreme Court will be a month computed from the notification of the judicial decision.

Paragraph VIII. The First Instance Court and the Court of Appeals that receive Law No. 173 claims must issue their judicial decision no later than thirty (30) days after the docket is pending a decision, unless there is a just cause preventing the solution of the dispute in the established term, which must be formally recorded and indicated in the judicial decision; if the Judge or Judges assigned to the case do not abide by the before mentioned they may be sanctioned in conformity to the amended Article 165 of the Law of Judicial Organization.

Article 8. The provisions of the present Law are of public order and therefore cannot be revoked nor modified by private agreements.

Article 9. The present Law revokes and substitutes Law No. 6080 of October 22, 1962, amended by Law No. 646 of March 8, 1965, as well as any other Law or provision contrary to it.

Article 10. In order to exercise the rights conferred by the present Law, the person or entity referred to in Article 1 shall register the name of the foreign firm or company they represent, either by acting as agents, representatives, importers, commission merchants, licensees or under any other denomination, before the Central Bank.

Paragraph I. For the previous purposes, the person or entity must file before the Central Bank the supporting documents substantiating and justifying their role in the commercial relationship and indicating their address, as well as the name of the foreign firm or company, address, products they represent and the maximum commission rate they receive.

Article 11. In the cases provided in Article 3 as well as those provided for by Article 4, the Licensor

cannot establish himself in the Dominican Republic, whether that is establishing his domicile in the country or incorporating a Dominican branch, or in any other manner, in order to substitute the Licensee's activities, nor can he name a new national or foreign Licensee to substitute the original Licensee if a final agreement hasn't been reached, in accordance to the Law, and having indemnified the Licensee by means of an only and total payment.

Article 12. The person or entity, foreign or national, may dedicate themselves in the Dominican Republic, to the promotion or negotiation of importation, sale, lease, or any other form of trade or exploitation of merchandise or products of foreign production, or local production through agents, representatives, commissioners, exclusive distributors, Licensees or under any other denomination. However, if the person or entity that is going to dedicate themselves to said activity has sustained a commercial relation with a local Licensee, he must first agree and previously issue, by writing, the indemnification of the damages provoked to the original Licensee in the manner described in Article 3 of the present Law.

Issued, in the National Palace, Santo Domingo, National District, Dominican Republic on April 6, 1966.

Hector García Godoy, Temporary President of the Dominican Republic

Translation prepared by: Isabella Santoni and Eugenia Brache