LC 0323/01

Johnsk \_ BILL NO. 7/ 1 Sund Ro INTRODUCED BY Sich Burer - FAGE

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 5 74-608, 74-610, AND 74-611, R.C.M. 1947, TO APPLY THE 6 SPECIFIED INTEREST RATE IN THE CASE OF RETAIL INSTALLMENT 7 SALES TO THE END OF THE MONTH BALANCE AS WELL AS THE AVERAGE 8 DAILY BALANCE AND TO CHANGE THE PENALTY FOR CERTAIN 9 VIOLATIONS OF THE RETAIL INSTALLMENT SALES ACT FROM A 10 CRIMINAL TO A CIVIL CLASSIFICATION."

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 74-608, R.C.M. 1947, is amended to 14 read as follows:

15 "74-608. Finance charge limitation. tatll
16 Notwithstanding the provisions of any other law, the finance
17 charge included in a retail installment contract shall not
18 exceed the following schedule:

19 <u>t+t(a)</u> As to motor vehicles:

20 Class 1. Any new motor vehicle designated by the 21 manufacturer by a year model not earlier than the year in 22 which the sale is made--seven-dollars-(\$7) per one--hundred 23 dollars-(\$100) per year.

Class 2. Any new motor vehicle not in class 1 and any
used motor vehicle designated by the manufacturer by a year

model of the same or not more than two-(2) years prior to
 the year in which the sale is made--nine--dollars--(39) per
 one-hundred-dollars-(\$100) per year.

Class 3. Any used motor vehicle not in class 2 and designated by the manufacturer by a year model more than two f2; years prior to the year in which the sale is made--eleven--dollars--(\$11) per one-hundred-dollars-(\$100) per year.

9 (2)(b) As to any industrial or construction equipment 10 primarily designed for or used in construction, logging, 11 mining, or other industrial business, the price of which is 12 over five--thousand-dollars-(\$5,000)--nine-dollars-(\$9) per 13 one-hundred-dollars-(\$100) per year. This subsection shall 14 not apply to agricultural equipment.

15 (3)(c) As to services and goods other than as provided
 under subsections (1)(a) and (2) (11(b) above:

17 (i) 8n on so much of the principal balance as does not
18 exceed three-hundred-dollars-(\$300), eleven--dollars--(\$11),
19 per one-hundred-dollars-(\$100) per year;
20 (ii) if the principal balance exceeds three-hundred

dolfars-(\$300), but is less than one--thousand--dolfars (\$1,000), nine--dolfars-(\$9) per one-hundred-dolfars-(\$100) per year on that portion over three-hundred-dolfars--(\$309); (iii) if the principal balance exceeds one-thousand dolfars-(\$1,000), seven-dolfars-(\$7) per one-hundred-dolfars

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(b)(2) Such finance charge shall be computed on the 3 principal balance as determined under section 74-507 (f) on 4 5 contracts payable in successive monthly payments substantially equal in amount from the date of the contract 6 until the maturity of the final installment, notwithstanding 7 that the total time balance thereof is required to be paid 8 9 in installments. A minimum finance charge of twenty--dollars f\$20; may be charged on any retail installment contract. 10

11 (e)(3) When a retail installment contract provides for 12 payment, other than in equal successive monthly 13 installments, the finance charge may be a rate which will 14 provide the same yield as is permitted on monthly payment 15 contracts under subsections (a)(1) and (b)(2) hereof, having 16 due regard for the schedule of payments in the contract.

17 (d)(4) Notwithstanding the provisions of any other 18 law, a retail charge account agreement may provide fory and 19 the seller or holder may charge, collect, and receive a 20 finance charger as specified hereinr for the privilege of 21 paying in installments thereunder. The finance charge may be 22 computed from month to month (which need not be a calendar 23 month) or other regular billing cycle period by applying a rate not to exceed one-and-one-half-per--cent (1 1/2%) for 24 25 each such monthly period to an <u>the</u> amount (not including any LC 0323/01

1	unpaid finance charge) not-in-excess-of-the-greatest of:
2	(i) the average daily balance in the account in the
3	billing cycle period; <del>or</del>
4	(ii) the unpaid balance of the account as of the last
5	day of the billing cycletor
£	<del>{ii}}(iii)</del> the median amount within a <del>ten-oollar-(</del> \$10 <del>)</del>
7	range within which such average daily balance or <del>beginning</del>
8	anding balance falls, provided the seller applies the same
9	rate of finance charge to all such balances within such
10	range∙
11	<pre>(e)[5] If the finance charge so determined pursuant to</pre>
12	<code>(d)(4)</code> abovey for such monthly period is less than fifty 50
13	cents <del>(500),</del> a maximum finance charge not in excess of <del>fifty</del>
14	50 cents (59g) may be charged, received, and collected for
15	such períod.™
16	Section 2. Section 74-610, R.C.M. 1947, is amended to
17	read as follows:
18	"74-610. Refinancing retail installment contract. The
19	holder of a contract, upon request by the buyer, may extend
20	the scheduled due date of all or any part of any installment
21	or installments, or defer payment or payments, or renew or
22	restate the unpaid time balance of such contract, the amount
23	of the inscallments, and the time schedule therefor and may
24	collect for such extension, deferment, renewal $_{f 1}$ or
25	restatement a refinance charge computed as follows: The

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holder may compute the refinance charge on the unpaid time 1 balance to be extended, deferred, renewed, or restated by 2 adding to such unpaid time balance the cost for any 3 insurance and other benefits incidental to the refinancing 4 5 plus any accrued delinguency and collection charges, after deducting any refund which may be due the buyer as for a 6 7 prepayment cursuant to section 74-609y at the rate of the 8 finance charge specified in section 74-508(a)(1) and by reclassifying in the case of motor vehicles by its then year 9 10 modely for the term of the refinancing agreementy but otherwise subject to the provisions of this act governing 11 12 computation of the original finance charge. The provisions 13 of this act relating to minimum finance charges under section 74-608(b)(2) and an acquisition cost under section 14 74-609 shall not apply in calculating refinance charges on 15 16 the contract extended, deferred, renewed, or restated. If all unpaid installments are deferred for not more than two 17 f2; months, the holder may at his election charge and 13 19 collect for such deferment an amount equal to the difference 20 between:

21 to)(1) the refund required for prepayment in full
22 under section 74-609 as of the scheduled due date of the
23 first deferred installment, and

24 (b)(2) the refund required for prepayment in full as
25 of one-fl month prior to said date, times the number of

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3 read as follows: 4 "74-611. Penalties. fat(1) Any person who what knowingly--violate--any--provision--of--this--act--or-engage 5 6 engages in the business of a sales finance company in this 7 state without a license therefor as provided in this act shall be quilty of a misdemeanor and upon conviction shall 8 9 be punished by a fine of not more than five-hundred-dollars {\$500} or by imprisonment for not more than six-#5} months; 10 or both. 11 12 (b)(2) Any person violating sections 74-607 to through 13 74-610, except as the result of an accidental and bona fide 14 error of computation, shall be-barred from-recovery--of--any 15 finance--chargey--delinguency--or--collection--charge-on-the contract forfeit to the debtor double the amount of any 16

Section 3. Section 74-611, R.C.M. 1947, is amended to

months in which no schedulad payment is made."

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#### Approved by Committee on Business and Industry

1	HOUSE BILL ND. 71
2	INTRODUCED BY FEDA, LUND, ROBBINS, MARKS,
3	JOHNSTON, STAIGMILLER, GERKE, BURNETT, FAGG, UNDERDAL
4	
5	A BILL FOR AN ACT ENTITLED: MAN ACT TO AMEND SECTIONS
6	74-608, 74-610, AND 74-611, R.C.M. 1947, TO APPLY THE
7	SPECIFIED INTEREST RATE IN THE CASE OF RETAIL INSTALLMENT
8	SALES TO THE END OF THE MONTH BALANCE AS WELL AS THE AVERAGE
9	DAILY BALANCE AND TO CHANGE THE PENALTY FOR CERTAIN
10	VIOLATIONS OF THE RETAIL INSTALLMENT SALES ACT FROM A
11	CRIMINAL TO A CIVIL CLASSIFICATION."
12	
13	BE IT ENACTED BY THE LEGISLATURE DF THE STATE OF MONTANA:
14	Section 1. Section 74-608, R.C.M. 1947, is amended to
15	read as follows:
16	#74-608. Finance charge limitation. <del>(0)(1)</del>
17	Notwithstanding the provisions of any other law, the finance
18	charge included in a retail installment contract shall not
19	exceed the following schedule:
20	<pre>tty[a] As to motor vehicles:</pre>
21	Class 1. Any new motor vehicle designated by the
22	manufacturer by a year model not earlier than the year in
23	which the sale is made <del>seven-dellars-{\$7}</del> per <del>onehundred</del>
24	<del>dollars-t</del> \$100 <del>]</del> per year.
25	Class 2. Any new motor vehicle not in class 1 and any

used motor vehicle designated by the manufacturer by a year
 model of the same or not more than two-t2; years prior to
 the year in which the sale is made--nine--dollars--t\$9; per
 one-hundred-dollars-t\$100; per year.

5 Class 3. Any used motor vehicle not in class 2 and 6 designated by the manufacturer by a year model more than two 7 f2; years prior to the year in which the sale is 8 made--eleven--dollars--f\$11; per one-hundred-dollars-f\$100; 9 per year.

10 (2)(b) As to any industrial or construction equipment, 11 primarily designed for or used in construction, logging, 12 mining, or other industrial business, the price of which is 13 over five-thousand-dollars-(\$5,000)\_1--nine-dollars-(\$9) per 14 one-hundred-dollars-(\$100) per year. This subsection shall 15 not apply to agricultural equipment.

16 (3)(c) As to services and goods other than as provided
 17 under subsections (1)(a) and (2) (1)(b) above:

(i) On on so much of the principal balance as does not
 exceed three-hundred-dollars-(\$300), eleven--dollars--(\$11),
 per one-hundred-dollars-(\$100) per year;

(ii) if the principal balance exceeds three-hundred dollars-(\$300), but is less than one--thousand--dollars (\$1,000), nine--dollars-(\$9) per one-hundred-dollars-(\$100) per year on that portion over three-hundred-dollars--(\$300); (iii) if the principal balance exceeds one-thousand

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## SECOND READING

1 dofters-(\$1,000), seven-dofters-(\$7) per one-hundred-dofters
2 (\$100) per year on that portion over one--thousand--dofters
3 (\$1,000).

4 (b)(2) Such finance charge shall be computed on the 5 principal balance as determined under section 74-607 (f) on 6 contracts pavable in successive monthly payments 7 substantially equal in amount from the date of the contract 8 until the maturity of the final installment, notwithstanding 9 that the total time balance thereof is required to be paid 10 in installments. A minimum finance charge of twenty--dollars 11 f\$20+may be charged on any retail installment contract.

12 (c)[3] When a retail installment contract provides for 13 paymenty other than in equal successive monthly 14 installments, the finance charge may be a rate which will 15 provide the same yield as is permitted on monthly payment 16 contracts under subsections-(+)[1] and (b)[2] hereof, having 17 due regard for the schedule of payments in the contract.

18 (d)(4) Notwithstanding the provisions of any other 19 law, a retail charge account agreement may provide for and the seller or holder may charge, collect, and receive a 20 21 finance charge, as specified herein, for the privilege of 22 paying in installments thereunder. The finance charge may be computed from month to month (which need not be a calendar 23 24 month) or other regular billing cycle period by applying a 25 rate not to exceed one-and-one-half-per--cent (1 1/2%) for

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1 each such monthly period to an the amount (not including any 2 unpaid finance charge) not-in-excess-of-the-greatest of: 3 (i) the average daily balance in the account in the 4 billing cycle period; or 5 (ii) the unpaid balance of the account as of the last 6 day of the billing cycle LESS THE AMOUNT OF PURCHASES 7 CHARGED TO THE ACCOUNT DURING THAT BILLING CYCLE: or 8 fiit(iii) the median amount within a ten--doller--(\$10) 9 range within which such average daily balance or beginning 10 ending balance falls, provided the seller applies the same 11 rate of finance charge to all such balances within such 12 range. 13 fef(5)' If the finance charge so determined pursuant to 14 td)[4] abovey for such monthly period is less than fifty 50 15 cents (50g), a maximum finance charge not in excess of fifty 16 50 cents (50g) may be charged, received, and collected for

18 Section 2. Section 74-610, R.C.M. 1947, is amended to 19 read as follows:

20 "74-610. Refinancing retail installment contract. The 21 holder of a contract, upon request by the buyer, may extend 22 the scheduled due date of all or any part of any installment 23 or installments, or defer payment or payments, or renew or 24 restate the unpaid time balance of such contract, the amount 25 of the installments, and the time schedule therefor and may

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such period."

1 collect for such extension, deferment, renewal, or restatement a refinance charge computed as follows: The 1 holder may compute the refinance charge on the unpaid time 3 balance to be extended, deferred, renewed; or restated by 4 adding to such unpaid time balance the cost for any 5 insurance and other benefits incidental to the refinancing 6 plus any accrued delinquency and collection charges, after 7 deducting any refund which may be due the buyer as for a 8 prepayment pursuant to section 74-609y at the rate of the 9 finance charge specified in section 74-608(a)(1) and by 10 reclassifying in the case of motor vehicles by its then year 11 modely for the term of the refinancing agreementy but 12 otherwise subject to the provisions of this act governing 13 computation of the original finance charge. The provisions 14 of this act relating to minimum finance charges under 15 section 74-608(b)[2] and an acquisition cost under section 16 74-609 shall not apply in calculating refinance charges on 17 the contract extended, deferred, renewed, or restated. If 18 all unpaid installments are deferred for not more than two 19 f2+ months, the holder may at his election charge and 20 collect for such deferment an amount equal to the difference 21 22 between:

23 (a)(1) the refund required for prepayment in full
24 under section 74-609 as of the scheduled due date of the
25 first deferred installment, and

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(b)(2) the refund required for prepayment in full as
 of one--(1) month prior to said dates times the number of
 months in which no scheduled payment is made."

4 Section 3. Section 74-611. R.C.M. 1947. is amended to 5 read as follows:

6 \*74-611. Penalties. tat(1) Any person who shall 7 knowingly-violate--any--provision--of--this--act--or--engage KNOWINGLY\_VIOLATES ANY PROVISION OF THIS ACT OR engages in 8 9 the business of a sales finance company in this state 10 without a license therefor as provided in this act shall be guilty of a misdemeanor and upon conviction shall be 11 12 punished by a fine of not more than five-hundred-dollars 13 +\$500} or by imprisonment for not more than six-top months: 14 or both.

15 (b)(2) Any person violating sections 74-607 to through 16 74-610, except as the result of an accidental and bona fide 17 error of computation, shall be-barred from-recovery-of--ony 18 finance--chargey--delinquency-or-collection--charge-on-the 19 contract forfeit-to-the-debtar--double--the--amount--of--any 20 finance--charge--or-delinquency-or-collection-charge-imposed 21 BE SARED\_FROM\_RECOVERY\_OF\_ANY\_FINANCE\_\_CHARGE\_\_\_DELINQUENCY

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OR COLLECTION CHARGE ON THE CONTRACT."

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## Approved by Committee on Business and Industry

1	HOUSE BILL NO. 71
2	INTROCUCED BY FEDA, LUND, ROBBINS, MARKS,
3	JCHNSTON, STAIGMILLER, GERKE, EURWETT, FAGG, UNDERDAL
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
6	74-608, 74-610, AND 74-611, R.C.M. 1947, TO APPLY THE
7	SPECIFIED INTEREST RATE IN THE CASE OF BETAIL INSTALLMENT
8	SALES TO THE END OF THE MONTH BALANCE AS WELL AS THE AVERAGE
9	DAILY PALANCE AND TO CHANGE THE PENALTY FOR CERTAIN
10	VIOLATIONS OF THE RETAIL INSTALLMENT SALES ACT FROM A
11	CRIMINAL TO A CIVIL CLASSIFICATION."
12	
13	BY IT FNACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14	Section 1. Section 74-608, R.C.M. 1947, is amended to
15	read as follows:
16	"74-608. Pinance cbarge limitation. <del>(a)<u>(1)</u></del>
17	Notwithstanding the provisions of any other law, the finance
18	charge included in a retail installment contract shall not
19	exceed the following schedule:
20	(1) [a] As to motor vehicles:
21	Class 1. Any new motor webicle designated by the
22	manufacturer by a year model not earlier than the year in
23	which the sale is made <del>seven dollars-{</del> \$7 <del>}</del> per <del>onehundrod</del>
24	<del>dellars (</del> \$100 <del>)</del> per year.
25	Class 2. Any new motor vehicle nct in class 1 and any

SECOND READING Second Printing

used motor vehicle designated by the manufacturer by a year 1 2 model of the same or not more than two-(2) years prior to 3 the year in which the sale is made---nine---dellars----(\$9) per D. one-hundred-dollars-{\$100} per year.

5 Class 3. Any used motor vehicle not in class 2 and 6 designated by the manufacturer by a year model more than two +2+ years prior to the year in which the sale is 7 made--eleven--dellarg--{\$11} per england-dellarg-{\$100} 8 9 per year.

10 (2) (b) As to any industrial or construction equipment 11 primarily designed for or used in construction, logging, 12 mining, or other industrial business, the price of which is 13 one-hundred-dollars (\$100) per year. This subsection shall 14 15 not apply to agricultural equipment.

16 (3) (c) As to services and goods other than as provided 17 under subsections (1) (a) and (2) (1) (b) above:

18 (i) On on so much of the principal balance as does not 19 exceed three-hundred-dollars (\$ 300), eleven-dollars -- (\$11), 20 per one-hundred-dollars-{\$100} per year; 21 (ii) if the principal balance exceeds three-hundred

22 dollare (\$300), but is less than one-thousand-dollars 23 -(\$1,000), mine-dellars-(\$9) per one-bundred-dellars-(\$100) 24 per year on that portion over three-hundred-dollars--{\$300}; 25 (iii) if the principal balance exceeds one-thousand

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dollars-(\$1,000), seven-dollars-(\$7) per one-hundred-dollars
 (\$100) per year on that portion over one--thousand--dollars
 (\$1,000).

4 (b) (2) Such finance charge shall be computed on the principal balance as determined under section 74-607 (f) on 5 6 contracts payable in successive monthly payments 7 substantially equal in amount from the date of the contract 8 until the maturity of the final installment. notwithstanding 9 that the total time balance thereof is required to be paid in installments. A minimum finance charge of twenty-dollars 10 -{\$20}-may be charged on any retail installment contract. 11

12 (0)(3) When a retail installment contract provides for 13 payment, other than in equal successive monthly 14 installments, the finance charge may be a rate which will 15 provide the same yield as is permitted on monthly payment 16 contracts under subsections (a)(1) and (b)(2) hereof, having 17 due regard for the schedule of payments in the contract.

18 (4) (4) Notwithstanding the provisions of any other 19 law, a retail charge account agreement may provide for , and 20 the seller or holder may charge, collect, and receive a 21 finance charge, as specified herein, for the privilege of 22 paying in installments thereunder. The finance charge may be 23 computed from month to month (which need not be a calendar 24 month) or other regular billing cycle period by applying a 25 rate not to exceed one-and one-half-por-seat (1 1/2%) for

1 each such monthly period to an the AN amount (not including 2 any unpaid finance charge) not-in-excess-of-the-groatest NCT 3 IN EXCESS OF THE GREATEST of: 4 (i) the average daily balance in the account in the 5 billing cycle period; or 6 (ii) the uppaid ENDING talance of the account as of the 7 last day of the billing cycle LESS THE AMOUNT OF FURCHASES 8 CHARGED TO THE ACCOUNT DURING THAT BILLING CYCLE: or 9 (iii) the median amount within a ten--dellar--(\$10) 10 range within which such average daily balance or beginning 11 ending BEGINNING balance falls, provided the seller applies 12 the same rate of finance charge to all such balances within 13 such range. 14 (e) (5) If the finance charge so determined pursuant to 15 -(d) (4) above, for such monthly period is less than fifty 50 16 cents (564), a maximum finance charge not in excess of fifty 17 50 cents (50#) may be charged, received, and collected for 18 such period." Section 2. Section 74-610, R.C.S. 1947, is amended to 19 20 read as follows: 21 "74-610. Befinancing retail installment contract. The 22 holder of a contract, upon request by the buyer, way extend the scheduled due date of all or any part of any installment 23 24 or installments, or defer payment or payments, or renew or

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restate the unpaid time balance of such contract, the amount

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of the installments, and the time schedule therefor and may 1 collect for such extension, deferment, renewal, cr 2 restatement a refinance charge computed as follows: The 3 holder may compute the refinance charge on the unpaid time 4 balance to be extended, deferred, renewed, or restated by 5 adding to such unpaid time balance the cost for any 6 insurance and other benefits incidental to the refinancing 7 plus any accrued delinguency and collection charges, after 8 deducting any refund which may be due the buyer as for a 9 prepayment pursuant to section  $74-609_{T}$  at the rate of the 10 finance charge specified in section 74-608(a)(1) and by 11 12 reclassifying in the case of motor vehicles by its then year nodely for the term of the refinancing agreementy but 13 otherwise subject to the provisions of this act governing 19 computation of the criginal finance charge. The provisions 15 of this act relating to minimum finance charges under 16 pestion 74-608(b) (2) and an acquisition cost under section 17 74-609 shall not apply in calculating refinance charges on 18 the contract extended, deferred, renewed, or restated. If 19 all unpaid installments are deferred for not more than two 20 21 -42+ months, the holder may at his election charge and 22 collect for such deferment an amount equal to the difference 23 between:

24 (a) (1) the refund required for prepayment in full
 25 under section 74-609 as of the scheduled due date of the

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1 first deferred installment, and

2 (b)(2) the refund required for prepayment in full as
3 of one-(1) month prior to said date, times the number of
4 months in which no scheduled payment is made."

5 Section 3. Section 74-611, B.C.M. 1947, is amended to
6 read as follows:

7 "74-611. Penalties. (a) (1) Any person who shall knowingly-wiolate--asy--provision--of--this--ast--of--engage 8 9 KNOWINGLY VIOLATES ANY PROVISION CF THIS ACT OF engages in the business of a sales finance company in this state 10 without a license therefor as provided in this act shall be 11 12 quilty of a misdemeanor and upon conviction shall be 13 punished by a fine of not more than five hundred dellars 14 +\$500) or by imprisonment for not more than sim (6) months. 15 or both.

16 (b) (2) Any person violating sections 74-607 to through 17 74-610, except as the result of an accidental and bona fide 18 error of computation, shall be-barred from-recovery--of--any 19 20 contract forfeit-to-the-debtor-double-the-abount-of--abt 21 finance-charge-or\_delingyency\_or\_collection\_charge\_imponed 22 BE BARRED FROM RECOVERY OF ANY FINANCE \_ CHARGE, \_ DELINCUENCY 23 OR COLLECTION CHARGE ON THE CONTRACT."

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HOUSE BILL NO. 71
INTRODUCED BY FEDA, LUND, POBBINS, MARKS,
JOHNSTON, STAIGNILLER, GERKE, EDRNETT, FAGG, UNDERDAL
A BILL FOR AN ACT ENTITLED: "AN ACT TO AMENC SECTIONS
74-608, 74-610, AND 74-611, R.C.M. 1947, TO APPLY THE
SPECIFIED INTEREST RATE IN THE CASE OF BETAIL INSTALLMENT
SALES TO THE END OF THE MONTH BALANCE AS WELL AS THE AVERAGE
DAILY BALANCE AND TO CHANGE THE PENALTY FOR CERTAIN
VIOLATIONS OF THE RETAIL INSTALLMENT SALES ACT FROM A
CRIMINAL TO A CIVIL CLASSIFICATION."
CRIMINAL IO & CLUID CARDINICATION.
BE IT PNACTED BY THE LEGISLATURE OF THE STATE CF BONTANA:
Section 1. Section 74-608, R.C.M. 1947, is amended to
read as follows:
<pre>"74-608. Finance charge limitation. <del>{a}(1)</del></pre>
Notwithstanding the provisions of any other law, the finance
charge included in a retail installment contract shall not
exceed the following schedule:
(1) [a] As to motor vehicles:
Class 1 low new motor webicle designated by the

21 Class 1. Any new motor vehicle designated by the 22 manufacturer by a year model not earlier than the year in which the sale is made--seven-dollars-(\$7) per one-hundred 23 24 dellars (\$100) per year.

Class 2. Any new motor vehicle not in class 1 and any 25

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used motor vehicle designated by the manufacturer by a year 1 2 model of the same or not more than two-42+ years prior to 3 one-hundred-dellars-{\$100} per year.

5 Class 3. Any used motor vehicle not in class 2 and 6 designated by the manufacturer by a year model more than two -42+ years prior to the year in which the sale is 7 made---eleven--dellars--{\$11} per eme-hundred-dellars--{\$100} 8 9 per year.

(2) (b) As to any industrial or construction equipment 10 11 primarily designed for or used in construction, logging, 12 mining, or other industrial business, the price of which is 13 14 one-hundred\_dellars (\$100) per year. This subsection shall 15 not apply to agricultural equipment.

16 (3) (c) As to services and goods other than as provided 17 under subsections (1) (a) and (2) (1) (b) above:

18 (i) On op so much of the principal balance as does not 19 exceed three hundred dollars (\$ 300), eleven dollars (\$ 11), per one-hundred-dollars-{\$100} per year: 20

21 (ii) if the principal balance exceeds three-hundred

22 dollars-(\$300), but is less than one--thousand--dollars

-(\$1,000), mine-dollars-(\$9) per one-hundred-dollars-(\$100) 23

per year on that portion over three-hundred-dollars--- (\$300); 24

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(iii) if the principal balance exceeds one-thousand

dellars-(\$1,000), soven-dellars-(\$7) per ene-hundred-dellars
 -(\$100) per year on that portion over ene-thousand-dellars
 -(\$1,000).

4 (b) (2) Such finance charge shall be computed on the 5 principal balance as determined under section 74-607 (f) on 6 contracts payable in successive monthly payments 7 substantially equal in amount from the date of the contract 8 until the maturity of the final installment. notwithstanding 9 that the total time balance thereof is required to be paid 10 in installments. A minimum finance charge of <del>tweaty-dollars</del> 11 -{\$20}-may be charged on any retail installment contract.

12 (0)(3) When a retail installment contract provides for 13 payment, other than in equal successive monthly 14 installments, the finance charge may be a rate which will 15 provide the same yield as is permitted on monthly payment 16 contracts under subsections (a)(1) and (b)(2) hereof, having 17 due regard for the schedule of payments in the contract.

19 (d) [4] Notwithstanding the provision; of any other 19 law, a retail charge account agreement may provide for- and 20 the seller or holder may charge, collect, and receive a 21 finance charge, as specified herein, for the privilege of 22 paying in installments thereunder. The finance charge may be 23 computed from month to month (which need not be a calendar 24 month} or other regular billing cycle period by applying a 25 rate not to exceed one-and-one-half-per-cent 41 1/2%+ for

each such monthly period to an the AN amount (not including
 any unpaid finance charge) not-in-encode-of-the-greatest NCT
 IN EXCESS OF THE GREATEST of:

4 (i) the average daily balance in the account in the
5 billing cycle period; <del>or</del>

6 <u>fiil the unpaid</u> EMDING balance of the account as of the 7 <u>last\_day\_of the billing cycle LESS THE ABOUNT OF FUNCHASES</u> 8 <u>CHARGED TO THE ACCOUNT DURING THAT BILLING CYCLE: or</u>

9 (ii) (iii) the median amount within a ten--dellar--(\$10)
10 range within which such average daily balance or beginping
11 ending DEGINNING balance falls, provided the seller applies
12 the same rate of finance charge to all such balances within
13 such range.

14 (e) (5) If the finance charge so determined pursuant to
15 (4) (4) above, for such monthly period is less than fifty 50
16 cents (50#), a maximum finance charge net in excess of fifty
17 50 cents (50#) may be charged, received, and collected for
18 such period."

19 Section 2. Section 74-610, R.C.M. 1947, is amended to
20 read as follows:

21 "74-610. Refinancing retail installment contract. The 22 holder of a contract, upon request by the buyer, may extend 23 the scheduled due date of all or any part of any installment 24 or installments, or defer payment or payments, or renew or 25 restate the unpaid time balance of such contract, the amount

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of the installments, and the time schedule therefor and may 1 collect for such extension, deferment, renewal, cr 2 restatement a refinance charge computed as follows: The 3 holder may compute the refinance charge on the unpaid time 4 balance to be extended, deferred, renewed, or restated by 5 adding to such unpaid time balance the cost for any 6 insurance and other benefits incidental to the refinancing 7 plus any accrued delinguency and collection charges, after 8 deducting any refund which may be due the buyer as for a 9 prepayment pursuant to section 74-609, at the rate of the 10 11 reclassifying in the case of motor vehicles by its then year 12 modely for the term of the refinancing agreementy but 13 otherwise subject to the provisions of this act governing 14 computation of the original finance charge. The provisions 15 of this act relating to minimum finance charges under 16 17 section 74-608(b)(2) and an acquisition cost under section 74-609 shall not apply in calculating refinance charges on 18 the contract extended, deferred, renewed, or restated. If 19 all unpaid installments are deferred for not scre than two 20 -{2} months, the holder may at his election charge and 21 collect for such deferment an amount equal to the difference 22 23 between:

24  $\frac{(a)(1)}{(a)}$  the refund required for prepayment in full 25 under section 74-609 as of the scheduled due date of the 1 first deferred installment, and

2 (b) (2) the refund required for prepayment in full as
3 of one--(1) month prior to said date, times the number of
4 months in which no scheduled payment is made."

5 Section 3. Section 74-611, B.C.M. 1947, is amended to 6 read as follows:

#74-611. Penalties. (a) (1) Any person who shall 7 8 kBowingly-tielate-any--provision-of--this-act--or--engage 9 KNOWINGLY VIOLATES ANY PROVISION OF THIS ACT OR engages in 10 the business of a sales finance company in this state without a license therefor as provided in this act shall be 11 quilty of a misdemeanor and upon conviction shall be 12 13 punished by a fine of not more than five-hundred-dollars 14 -(\$500) or by imprisonment for not more than <del>siz-(6)</del> months, 15 or both.

16 (b) (2) Any person violating sections 74-607 to through 74-610, except as the result of an accidental and bona fide 17 error of computation, shall be barred from resevery -- of -- any 18 19 20 contract forfeit to the debtor double the apount of any finance--charge--or-delinguency-or-cellection-charge-imposed 21 22 BE BARRED FROM RECOVERY OF ANY FINANCE CHARGE, DELINCUENCY 23 OR COLLECTION CHARGE ON THE CONTRACT."

## -End-

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HB 0071/03

HOUSE BILL NO. 71 INTRODUCED BY FEDA, LUND, ROBBINS, MARKS, JOHNSTON+ STAIGMILLER, GERKE, BURNETT, FAGG+ UNDERDAL A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 74-608. 74-610. AND 74-611. R.C.H. 1947. TO APPLY THE SPECIFIED INTEREST RATE IN THE CASE OF RETAIL INSTALLMENT SALES TO THE END OF THE MONTH BALANCE AS HELL AS THE AVERAGE DAILY BALANCE AND TO CHANGE THE PENALTY FOR CERTAIN VIOLATIONS OF THE RETAIL INSTALLMENT SALES ACT FROM A CRIMINAL TO A CIVIL CLASSIFICATION." 12 BE IT ENALTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 14 Section 1. Section 74-608, R.C.M. 1947, is amended to read as follows: limitation. 16 #74-608. Finance charge fo)(1) Notwithstanding the provisions of any other law, the finance charge included in a retail installment contract shall not exceed the following schedule: (1)(a) As to motor vehicles: 20 Class 1. Any new motor vehicle designated by the 21 22 manufacturer by a year model not earlier than the year in which the sale is made--seven-dollors-(\$7) per one--hundred

dollars-f\$100+ per year. 24

Class 2. Any new motor vehicle not in class 1 and any 25

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1 used motor vehicle designated by the manufacturer by a year model of the same or not more than two-(2) years prior to 2 3 the year in which the sale is made--nine--dollars--f\$94 per 4 one-hundred-dollars-f\$100t per year.

5 Class 3. Any used motor vehicle not in class 2 and designated by the manufacturer by a year model more than two - 6 1 t27 years prior to the year in which the sale is made--eleven--dollars--f\$11; per one-hundred-dollars-f\$100; 9 per year.

10 (2)(b) As to any industrial or construction equipment primarily designed for or used in construction, logging, 11 12 mining, or other industrial business, the price of which is over five-thousand-dollars-(\$5,000)1--nine-dollars-(\$9) per 13 14 one-hundred-dollars-(\$100) per year. This subsection shall not apply to agricultural equipment. 15

16 (3)(C) As to services and goods other than as provided 17 under subsections (1)(a) and (2) (1)(b) above: (i) On on so much of the principal balance as does not 18

19 exceed three-hundred-dollars-(\$300), eleven--dollars--(\$11++ 20 per one-hundred-dollars-f\$1001 per year:

21 (ii) if the principal balance exceeds three-hundred 22 dollars-ts300ly but is less than one--thousand--dollars 23 t\$1,000; nine--dollars-t\$9; per one-hundred-dollars-t\$100; 24 per year on that portion over three-hundred-dollars--+\$300+: 25 (iii) if the principal balance exceeds one-thousand

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1 dollars-{\$1,000}, seven-dollars-{\$7} per one-hundred-dollars
2 {\$100} per year on that portion over one--thousand--dollars
3 {\$1,000}.

(b)(2) Such finance charge shall be computed on the 4 principal balance as determined under section 74-607 (f) on 5 6 contracts payable in successive monthly payments 7 substantially equal in amount from the date of the contract until the maturity of the final installment, notwithstanding 5 9 that the total time balance thereof is required to be paid 10 in installments. A minimum finance charge of twenty--dollars 11 f\$20ymay be charged on any retail installment contract.

12 (cf(3) When a retail installment contract provides for 13 paymenty other than in equal successive monthly 14 installments, the finance charge may be a rate which will 15 provide the same yield as is permitted on monthly payment 16 contracts under subsections (a)(1) and (b)(2) hereof, having 17 due regard for the schedule of payments in the contract.

fd+141 Notwithstanding the provisions of any other 18 19 law, a retail charge account agreement may provide for and the seller or holder may charge, collect, and receive a 20 21 finance chargey as specified hereiny for the privilege of paying in installments thereunder. The finance charge may be 22 computed from month to month (which need not be a calendar 23 month) or other regular billing cycle period by applying a 24 rate not to exceed one-and-one-half-per--cent (1 1/2%) for 25

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each such monthly period to <del>an <u>the</u> AN</del> amount (not including any unpaid finance charge) <del>not-in-excess-of-the-greatest <u>NBT</u></del>

3 IN EXCESS OF THE GREATEST of:

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4 (i) the average daily balance in the account in the
 5 billing cycle period; or

6 (ii) the unpoid ENDING balance of the account as of the 7 last\_ day\_ of the billing\_cycle LESS THE AMOUNT OF PURCHASES 8 CHARGED TO THE ACCOUNT OURING THAT BILLING CYCLE: or 9 fiit(ii) the median amount within a ten--dollar--f\$10+ 10 range within which such average daily balance or beginning ending BEGINNING balance falls, provided the seller applies 11 the same rate of finance charge to all such balances within 12 13 such range.

14 (+)(5) If the finance charge so determined pursuant to 15 (+)(4) abover for such monthly period is less than fifty 50 16 cents (50[), a maximum finance charge not in excess of fifty 17 50 cents (50[) may be charged, received, and collected for 18 such period."

19 Section 2. Section 74~610, R.C.M. 1947, is amended to 20 read as follows:

21 \*74-610. Refinancing retail installment contract. The 22 holder of a contract, upon request by the buyer, may extend 23 the scheduled due date of all or any part of any installment 24 or installments, or defer payment or payments, or renew or 25 restate the unpaid time balance of such contract, the amount

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of the installments, and the time schedule therefor and may 1 collect for such extension, deferment, renewals or 1 restatement a refinance charge computed as follows: The j. holder may compute the refinance charge on the unpaid time 4 5 palance to be extended, deferred, renewed, or restated by ò adding to such unpaid time balance the cost for any 7 insurance and other benefits incidental to the refinancing plus any accrued delinquency and collection charges, after Э deducting any refund which may be due the buyer as for a 9 prepayment pursuant to section 74-609y at the rate of the 10 finance charge specified in section 74-608(a)(1) and by 11 12 reclassifying in the case of motor vehicles by its then year modely for the term of the refinancing agreementy but 13 otherwise subject to the provisions of this act governing 14 computation of the original finance charge. The provisions 15 of this act relating to minimum finance charges under 16 section 74-608(b)(2) and an acquisition cost under section 17 74-609 shall not apply in calculating refinance charges on 18 the contract extended, deferred, reneweds or restated. If 19 all unpaid installments are deferred for not more than two 20 t2) months, the holder may at his election charge and 21 collect for such deferment an amount equal to the difference 22 23 between:

24 (a)(1) the refund required for prepayment in full
25 under section 74-609 as of the scheduled due date of the

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1 tirst deterred installment, and 2 to + 121 the refund required for prepayment in full as 3 4 months in which no scheduled payment is made." 5 Section 3. Section 74-611, R.C.M. 1947, is amended to read as follows: 6 \*74-611. Penalties. totill Any person who shall 7 ð knowinaly-violate--any--provision--of--this--act--pr--engage 9 KNOWINGLY VIOLATES ANY PROVISION OF THIS ACT OR EDGEDES IN 10 the business of a sales finance company in this state 11 without a license therefor as provided in this act shall be 12 quilty of a misdemeanor and upon conviction shall be 13 punished by a fine of not more than five-hundred-dollars 14 (\$500) or by imprisonment for not more than six-(6) months. 15 or both. 10 (b)121 Any person violating sections 74-607 to through 17

17 74-610, except as the result of an accidental and bona fide 18 error of computation, shall be-barred from-recovery--of--any 19 finance--chargey--delinquency--or--collection--charge-on-the 20 contract forfeit-to-the-debtor:-double--the--amount--of--amy 21 finance--charge--or-delinquency-or-collection-charge-imposed 22 BE SARRED FRUM RECOVERY OF ANY FINANCE CHARGE, DELINQUENCY

23 OR COLLECTION CHARGE ON THE CONTRACT."

-End-

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