

1 ~~HB~~ BILL NO. ~~71~~ *Johnston*
 2 INTRODUCED BY ~~A. Chedoke~~ ~~David Robb~~ ~~Mark~~
Montgomery ~~John Bunker~~ ~~TTG~~ *Urdedal*

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. ~~(a)~~
 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 ~~(1)(a)~~ 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.

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

1 model of the same or not more than two-~~(2)~~ years prior to
 2 the year in which the sale is made--nine--dollars--(\$9) per
 3 one-hundred-dollars-(\$100) per year.

4 Class 3. Any used motor vehicle not in class 2 and
 5 designated by the manufacturer by a year model more than two
 6 ~~(2)~~ years prior to the year in which the sale is
 7 made--eleven--dollars--(\$11) per one-hundred-dollars-(\$100)
 8 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
 16 under subsections (1)(a) and ~~(2)~~ ~~(1)(b)~~ above:

17 (i) On or 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
 21 dollars-(\$300), but is less than one--thousand--dollars
 22 \$1,000), nine--dollars-(\$9) per one-hundred-dollars-(\$100)
 23 per year on that portion over three-hundred-dollars--(\$300);

24 (iii) if the principal balance exceeds one-thousand
 25 dollars-(\$1,000), seven-dollars-(\$7) per one-hundred-dollars

1 ~~(\$100)~~ per year on that portion over ~~one--thousand--dollars~~
2 ~~(\$1,000)~~.

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

11 ~~(c)(3)~~ When a retail installment contract provides for
12 payments 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 for, and
19 the seller or holder may charge, collect, and receive a
20 finance charge, as specified herein, 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
24 rate not to exceed ~~one-and-one-half-per--cent~~ (1 1/2%) for
25 each such monthly period to ~~on the~~ amount (not including any

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; or

4 ~~(ii) the unpaid balance of the account as of the last~~
5 ~~day of the billing cycle~~ or

6 ~~(iii) the median amount within a ten-dollar--(\$10)~~
7 range within which such average daily balance or beginning
8 ending balance falls, provided the seller applies the same
9 rate of finance charge to all such balances within such
10 range.

11 ~~(e)(5)~~ If the finance charge so determined pursuant to
12 ~~(d)(4)~~ above, for such monthly period is less than ~~forty~~ 50
13 cents ~~(50c)~~, a maximum finance charge not in excess of ~~forty~~
14 50 cents ~~(50c)~~ may be charged, received, and collected for
15 such period."

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 installments, and the time schedule therefor and may
24 collect for such extension, deferral, renewal, or
25 restatement a refinance charge computed as follows: The

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

21 ~~(a)(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-~~(1)~~ month prior to said date, times the number of

1 months in which no scheduled payment is made."

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

4 "74-611. Penalties. ~~(a)(1)~~ Any person who shall
 5 knowingly--violate--any--provision--of--this--act--or--engage
 6 engages in the business of a sales finance company in this
 7 state without a license therefor as provided in this act
 8 shall be guilty of a misdemeanor and upon conviction shall
 9 be punished by a fine of not more than five-hundred-dollars
 10 ~~(\$500)~~ or by imprisonment for not more than six-~~(6)~~ months,
 11 or both.

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--charge--delinquency--or--collection--charge--on--the
 16 contract forfeit to the debtor double the amount of any
 17 finance charge or delinquency or collection charge imposed."

-End-

Approved by Committee
on Business and Industry

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.M. 1947, TO APPLY THE SPECIFIED INTEREST RATE IN THE CASE OF RETAIL 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."

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

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

"74-608. Finance charge limitation. ~~(a)~~(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:

Class 1. Any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made--~~seven-dollars-(\$7)~~ per ~~one-hundred~~ ~~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--(\$9)~~ 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~~ ~~(2)~~ years prior to the year in which the sale is made--~~eleven--dollars--(\$11)~~ per ~~one-hundred-dollars-(\$100)~~ per year.

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

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

(i) ~~On or~~ 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~~

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).~~

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 ~~twenty--dollars~~
11 ~~(\$20)~~ may be charged on any retail installment contract.

12 ~~(c)(3)~~ When a retail installment contract provides for
13 payments 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 ~~(c)(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
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 (1 1/2%)~~ for

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 ~~(iii)(iii)~~ the median amount within a ~~ten--dollar--(\$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 ~~(e)(5)~~ If the finance charge so determined pursuant to
14 ~~(d)(4)~~ above, for such monthly period is less than ~~fifty 50~~
15 cents ~~(\$0.50)~~, a maximum finance charge not in excess of ~~fifty~~
16 ~~50~~ cents ~~(\$0.50)~~ may be charged, received, and collected for
17 such period."

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

1 collect for such extension, deferment, renewal, or
 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 delinquency 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 finance charge specified in section 74-608~~(a)(1)~~ and by
 11 reclassifying in the case of motor vehicles by its then year
 12 model, for the term of the refinancing agreement, 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, renewed, or restated. If
 19 all unpaid installments are deferred for not more 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 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

1 ~~(b)(2)~~ the refund required for prepayment in full as
 2 of ~~one--(1)~~ month prior to said date, times the number of
 3 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. ~~(a)(1)~~ Any person who ~~shall~~
 7 ~~knowingly violate any provision of this act or engage~~
 8 KNOWINGLY VIOLATES ANY PROVISION OF THIS ACT OR engages in
 9 the business of a sales finance company in this state
 10 without a license therefor as provided in this act shall be
 11 guilty of a misdemeanor and upon conviction shall be
 12 punished by a fine of not more than ~~five hundred dollars~~
 13 ~~(\$500)~~ or by imprisonment for not more than ~~six-(6)~~ 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 any~~
 18 ~~finance charge, delinquency or collection charge on the~~
 19 ~~contract forfeit to the debtor double the amount of any~~
 20 ~~finance charge or delinquency or collection charge imposed~~
 21 BE BARRED FROM RECOVERY OF ANY FINANCE CHARGE, DELINQUENCY
 22 OR COLLECTION CHARGE ON THE CONTRACT."

-End-

Approved by Committee
on Business and Industry

HOUSE BILL NO. 71

INTRODUCED BY FEDA, LUND, ROBBINS, MARKS,

JOHNSTON, STAIGMILLER, GERKE, EURNETT, FAGG, UNDERDAL

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 74-608, 74-610, AND 74-611, R.C.M. 1947, TO APPLY THE SPECIFIED INTEREST RATE IN THE CASE OF RETAIL 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."

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

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

"74-608. Finance charge limitation. ~~(1)~~ (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:

Class 1. Any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made ~~seven dollars (\$7)~~ per ~~one hundred 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 (\$9)~~ 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 (2)~~ years prior to the year in which the sale is made ~~eleven dollars (\$11)~~ per ~~one hundred dollars (\$100)~~ per year.

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

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

(i) ~~On or~~ 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~~

SECOND READING
Second Printing

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).~~

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 ~~twenty dollars~~
 11 ~~(\$20)~~ may be charged on any retail installment contract.

12 ~~(c) (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 ~~(d) (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 per cent~~ (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 greatest~~ NOT
 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 unpaid 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 DURING THAT BILLING CYCLE; or

9 ~~(ii) (iii)~~ the median amount within a ~~ten dollar~~ ~~(\$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 ~~(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

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

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, R.C.M. 1947, is amended to
 6 read as follows:

7 "74-611. Penalties. ~~(a)(1)~~ Any person who shall
 8 ~~knowingly violate 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
 11 without a license therefor as provided in this act shall be
 12 guilty 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.

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 ~~finance charge, delinquency or collection charge on the~~
 20 ~~contract forfeit to the debtor double the amount of any~~
 21 ~~finance charge or delinquency or collection charge imposed~~
 22 BE BARRED FROM RECOVERY OF ANY FINANCE CHARGE, DELINQUENCY
 23 OR COLLECTION CHARGE ON THE CONTRACT."

-End-

HOUSE BILL NO. 71

INTRODUCED BY PEDERSEN, 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.M. 1947, TO APPLY THE SPECIFIED INTEREST RATE IN THE CASE OF RETAIL 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."

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

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

"74-608. Finance charge limitation. ~~(a)~~ (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:

Class 1. Any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made ~~seven dollars (\$7)~~ per ~~one hundred 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 (\$9)~~ 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 (2)~~ years prior to the year in which the sale is made ~~eleven dollars (\$11)~~ per ~~one hundred dollars (\$100)~~ per year.

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

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

(i) ~~On or~~ 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~~

THIRD READING

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)~~.

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 ~~twenty dollars~~
 11 ~~(\$20)~~ may be charged on any retail installment contract.

12 ~~(c)(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 ~~(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~~ (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 greatest~~ NOT
 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 unpaid 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 DURING THAT BILLING CYCLE; or

9 ~~(ii)(iii)~~ the median amount within a ~~ten dollar~~ ~~(\$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 ~~(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

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

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, R.C.M. 1947, is amended to
 6 read as follows:

7 "74-611. Penalties. ~~(a)(1)~~ Any person who shall
 8 ~~knowingly violate 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
 11 without a license therefor as provided in this act shall be
 12 guilty 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)~~
 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 ~~finance charge, delinquency or collection charge on the~~
 20 ~~contract forfeit to the debtor double the amount of any~~
 21 ~~finance charge or delinquency or collection charge imposed~~
 22 BE BARRED FROM RECOVERY OF ANY FINANCE CHARGE, DELINQUENCY
 23 OR COLLECTION CHARGE ON THE CONTRACT."

-End-

1 HOUSE BILL NO. 71

2 INTRODUCED BY FEDA, LUND, ROBBINS, MARKS,

3 JOHNSTON, STAIGMILLER, GERKE, BURNETT, 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 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 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. Finance charge limitation. ~~(c)~~(1)
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 vehicle designated by the
22 manufacturer by a year model not earlier than the year in
23 which the sale is made--~~seven-dollars-(\$7)~~ per ~~one--hundred~~
24 ~~dollars-(\$100)~~ per year.

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

1 used motor vehicle designated by the manufacturer by a year
2 model of the same or not more than ~~two-(2)~~ years prior to
3 the year in which the sale is made--~~nine--dollars--(\$9)~~ per
4 ~~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~~
7 ~~(2)~~ years prior to the year in which the sale is
8 made--~~eleven--dollars--(\$11)~~ per ~~one-hundred-dollars-(\$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:18 (i) ~~On or~~ 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 ~~dollars-(\$300)~~, but is less than ~~one--thousand--dollars~~
23 ~~(\$1,000)~~, ~~nine--dollars-(\$9)~~ per ~~one-hundred-dollars-(\$100)~~
24 per year on that portion over ~~three-hundred-dollars--(\$300)~~;25 (iii) if the principal balance exceeds ~~one-thousand~~

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)~~.

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 ~~twenty-dollars~~
 11 ~~(\$20)~~ may be charged on any retail installment contract.

12 ~~(c)(3)~~ When a retail installment contract provides for
 13 payments 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 ~~(d)(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-per-cent~~ ~~(1 1/2%)~~ for

1 each such monthly period to ~~on the AN~~ amount (not including
 2 any unpaid finance charge) ~~not-in-excess-of-the-greatest NBI~~
 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 unpaid 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 DURING THAT BILLING CYCLE; or~~

9 ~~(iii) the median amount within a ten-dollar-~~(\$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 ~~(\$0.50)~~, a maximum finance charge not in excess of ~~fifty~~
 17 ~~50~~ cents ~~(\$0.50)~~ 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

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

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, R.C.M. 1947, is amended to
 6 read as follows:
 7 *74-611. Penalties. (a)(1) Any person who shall
 8 ~~knowingly violate 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
 11 without a license therefor as provided in this act shall be
 12 guilty 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.
 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 ~~finance charge, delinquency or collection charge on the~~
 20 ~~contract for~~ forfeit to the debtor double the amount of any
 21 finance charge or delinquency or collection charge imposed
 22 BE BARRED FROM RECOVERY OF ANY FINANCE CHARGE, DELINQUENCY
 23 OR COLLECTION CHARGE ON THE CONTRACT."

-End-