

CHAPTER NO. 1160.

SENATE BILL NO. 381

INTRODUCED BY HIMSL, SEVERSON, GOODOVER, FABREGA

IN THE SENATE

February 6, 1979	Introduced and referred to Committee on Business and Industry.
February 13, 1979	Committee recommend bill do pass. Report adopted.
February 14, 1979	Printed and placed on members' desks.
February 15, 1979	Second reading, do pass.
February 17, 1979	Considered correctly engrossed.
February 19, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 20, 1979	Introduced and referred to Committee on Business and Industry.
March 2, 1979	Committee recommend bill be concurred in. Report adopted.
March 5, 1979	Second reading, concurred in.
March 7, 1979	Third reading, concurred in.

IN THE SENATE

March 8, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Spicer* BILL NO. *381*
 2 INTRODUCED BY *Himal Swanson Goodner*
 3 *Felberg*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO SET THE MAXIMUM
 5 FINANCE CHARGE FOR RETAIL INSTALLMENT SALES OF ANY
 6 MANUFACTURED STRUCTURE OR RECREATIONAL VEHICLE AT \$9 PER
 7 \$100 PER YEAR; DEFINING MANUFACTURED STRUCTURE AND
 8 RECREATIONAL VEHICLE; AMENDING SECTIONS 31-1-202 AND
 9 31-1-241, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 31-1-202, MCA, is amended to read:
 13 "31-1-202. Definitions. (1) Unless the context
 14 requires otherwise, in this part the following definitions
 15 apply:

16 (a) "Cash sale price" means the price stated in a
 17 retail installment contract or in a sales slip or other
 18 memorandum furnished by a retail seller to a retail buyer
 19 under or in connection with a retail charge account
 20 agreement for which the seller would have sold or furnished
 21 to the buyer and the buyer would have bought or obtained
 22 from the seller the goods or services which are the subject
 23 matter of the retail installment transaction, if the sale
 24 had been a sale for cash. The cash sale price may include
 25 any taxes, registration, certificate of title, license, and

1 official fees and cash sale prices for services, if any, and
 2 for accessories and their installation and for delivering,
 3 servicing, repairing, or improving the goods.

4 (b) "Department" means the department of business
 5 regulation provided for in Title 2, chapter 15, part 18.

6 (c) "Finance charge" means the amount, as limited by
 7 31-1-241, in addition to the principal balance, agreed upon
 8 between the buyer and the seller, to be paid by the buyer
 9 for the privilege of purchasing goods or services to be paid
 10 for by the buyer in one or more deferred installments.

11 (d) "Goods" means all chattels personal, including
 12 motor vehicles and merchandise certificates or coupons
 13 exchangeable for chattels personal but not including money
 14 or things in action. The term includes goods which, at the
 15 time of the sale or subsequently, are to be so affixed to
 16 realty as to become a part thereof, whether or not severable
 17 from it.

18 (e) "Holder" means the retail seller of the goods or
 19 services under the retail installment contract or retail
 20 charge account agreement or a person who establishes and
 21 administers retail charge account agreements with retail
 22 buyers; the assignee, if the retail installment contract or
 23 the retail charge account agreement or the balance in the
 24 account under either has been sold or otherwise transferred;
 25 or any other person entitled to the rights of the retail

1 seller under any retail installment contract or any retail
2 charge account agreement.

3 ~~(f) "Manufactured structure" means any structure,~~
4 ~~transportable in one or more sections, designed to be used~~
5 ~~as a single-family dwelling or commercial building with or~~
6 ~~without a permanent foundation when connected to the~~
7 ~~required utilities and includes the plumbing, heating, air~~
8 ~~conditioning, and electrical systems contained therein.~~

9 ~~(g) "Motor vehicle" means any new or used~~
10 ~~automobile, mobile---home, motorcycle, truck, trailer,~~
11 ~~semitrailer, truck tractor, and all vehicles with any power,~~
12 ~~other than muscular power, primarily designed or used to~~
13 ~~transport persons or property on a public highway,~~
14 ~~excepting, however, any vehicle which runs only on rails or~~
15 ~~tracks or in the air.~~

16 ~~(h) "Official fees" means the fees prescribed by~~
17 ~~law for filing, recording, or otherwise perfecting and~~
18 ~~releasing or satisfying any title or lien retained or taken~~
19 ~~by a seller in connection with a retail installment~~
20 ~~transaction.~~

21 ~~(i) "Person" means an individual, partnership,~~
22 ~~corporation, association, and any other group, however~~
23 ~~organized.~~

24 ~~(j) "Principal balance" means the cash sale price~~
25 ~~of the goods or services which are the subject matter of a~~

1 retail installment transaction plus the amounts, if any,
2 included in the sale, if a separate identified charge is
3 made therefor and stated in the contract, for insurance and
4 other benefits and official fees, minus the amount of the
5 buyer's down payment in money or goods.

6 ~~(k) "Recreational vehicle" means a vehicular type unit~~
7 ~~that either has its own motor power or is mounted on or~~
8 ~~drawn by another vehicle, primarily designed as temporary~~
9 ~~living quarters for recreational, camping, or travel use.~~

10 ~~(l) "Retail buyer" or "buyer" means a person who~~
11 ~~buys goods or obtains services from a retail seller in a~~
12 ~~retail installment transaction and not for the purpose of~~
13 ~~resale.~~

14 ~~(m) "Retail charge account agreement" means an~~
15 ~~instrument in writing prescribing the terms of retail~~
16 ~~installment transactions which may be made under it from~~
17 ~~time to time under which a retail seller gives to a retail~~
18 ~~buyer the privilege of using a credit card issued by the~~
19 ~~retail seller or any other person or other credit~~
20 ~~confirmation or identification for the purpose of purchasing~~
21 ~~goods or services from the retail seller, from the retail~~
22 ~~seller and any other person, or from a person licensed or~~
23 ~~franchised by the retail seller and under the terms of which~~
24 ~~a finance charge as defined in this section may be computed~~
25 ~~in relation to the buyer's balance in the account from time~~

1 to time.

2 (f)(n) "Retail installment contract" or "contract"
3 means an agreement evidencing a retail installment
4 transaction entered into in this state under which a buyer
5 promises to pay in one or more deferred installments the
6 time sale price of goods or services, or both. The term
7 includes a chattel mortgage, conditional sales contract, and
8 a contract for the bailment or leasing of goods by which the
9 bailee or lessee contracts to pay as compensation for its
10 use a sum substantially equivalent to or in excess of its
11 value and by which it is agreed that the bailee or lessee is
12 bound to become, or for no further or a merely nominal
13 consideration has the option of becoming, the owner of the
14 goods upon full compliance with the provisions of the
15 contract.

16 (f)(o) "Retail installment transaction" means a
17 written contract to sell or furnish, or the sale or
18 furnishing of, goods or services by a retail seller to a
19 retail buyer pursuant to a retail charge account agreement
20 or under a retail installment contract.

21 (f)(p) "Retail seller" or "seller" means a person who
22 sells goods or furnishes services to a retail buyer in a
23 written retail installment contract or written retail
24 installment transaction.

25 (f)(q) "Sales finance company" means a person engaged,

1 in whole or in part, in the business of purchasing retail
2 installment contracts from one or more sellers. The term
3 includes but is not limited to a bank, trust company,
4 investment company, or savings and loan association, if so
5 engaged. The term does not include a person who makes only
6 isolated purchases of retail installment contracts, which
7 purchases are not being made in the course of repeated and
8 successive purchases of retail installment contracts from
9 the same seller.

10 (f)(r) "Services" means work, labor, and services
11 furnished in the delivery, installation, servicing, repair,
12 or improvement of goods.

13 (f)(s) "Time sale price" means the total of the cash
14 sale price of the goods or services and the amount, if any,
15 included for insurance and other benefits, if a separate
16 identified charge is made therefor, and the amounts of the
17 official fees and the finance charge.

18 (2) This part does not apply to the lending of money
19 by banks or other lending institutions and securing loans by
20 chattel mortgages of goods in the ordinary course of lending
21 by those banks or other lending institutions. However, this
22 part pertains to the extension of credit by those banks or
23 other lending institutions under retail installment
24 contracts or credit cards issued by those banks or other
25 lending institutions."

1 Section 2. Section 31-1-241, MCA, is amended to read:
 2 "31-1-241. Finance charge limitation. (1)
 3 Notwithstanding the provisions of any other law, the finance
 4 charge included in a retail installment contract shall not
 5 exceed the following schedule:
 6 (a) as to motor vehicles:
 7 (i) class 1--any new motor vehicle designated by the
 8 manufacturer by a year model not earlier than the year in
 9 which the sale is made, \$7 per \$100 per year;
 10 (ii) class 2--any new motor vehicle not in class 1 and
 11 any used motor vehicle designated by the manufacturer by a
 12 year model of the same or not more than 2 years prior to the
 13 year in which the sale is made, \$9 per \$100 per year;
 14 (iii) class 3--any used motor vehicle not in class 2
 15 and designated by the manufacturer by a year model more than
 16 2 years prior to the year in which the sale is made, \$11 per
 17 \$100 per year.
 18 (b) as to any industrial or construction equipment
 19 primarily designed for or used in construction, logging,
 20 mining, or other industrial business, the price of which is
 21 over \$5,000, \$9 per \$100 per year. This subsection shall not
 22 apply to agricultural equipment.
 23 (c) as to any manufactured structure or recreational
 24 vehicle, \$9 per \$100 per year.
 25 (d) as to services and goods other than as provided

1 under subsections (1)(a), end (1)(b), and (1)(c) above:
 2 (i) on so much of the principal balance as does not
 3 exceed \$300, \$11 per \$100 per year;
 4 (ii) if the principal balance exceeds \$300 but is less
 5 than \$1,000, \$9 per \$100 per year on that portion over \$300;
 6 (iii) if the principal balance exceeds \$1,000, \$7 per
 7 \$100 per year on that portion over \$1,000.
 8 (2) Such finance charge shall be computed on the
 9 principal balance as determined under 31-1-231(5) on
 10 contracts payable in successive monthly payments
 11 substantially equal in amount from the date of the contract
 12 until the maturity of the final installment, notwithstanding
 13 that the total time balance thereof is required to be paid
 14 in installments. A minimum finance charge of \$20 may be
 15 charged on any retail installment contract.
 16 (3) When a retail installment contract provides for
 17 payment other than in equal successive monthly installments
 18 the finance charge may be a rate which will provide the same
 19 yield as is permitted on monthly payment contracts under
 20 subsections (1) and (2) hereof, having due regard for the
 21 schedule of payments in the contract.
 22 (4) Notwithstanding the provisions of any other law, a
 23 retail charge account agreement may provide for and the
 24 seller or holder may charge, collect, and receive a finance
 25 charge as specified herein for the privilege of paying in

1 installments thereunder. The finance charge may be computed
2 from month to month (which need not be a calendar month) or
3 other regular billing cycle period by applying a rate not to
4 exceed 1 1/2% for each such monthly period to an amount (not
5 including any unpaid finance charge) not in excess of the
6 greatest of:

7 (a) the average daily balance in the account in the
8 billing cycle period;

9 (b) the ending balance of the account as of the last
10 day of the billing cycle less the amount of purchases
11 charged to the account during that billing cycle; or

12 (c) the median amount within a \$10 range within which
13 such average daily balance or beginning balance falls,
14 provided the seller applies the same rate of finance charge
15 to all such balances within such range.

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

20 Section 3. Effective date. This act is effective on
21 passage and approval.

-End-

SB 381

Approved by Committee
on Business and Industry

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INTRODUCED BY *Assembly* BILL NO. 381
Himal Severson Goodover
Falvey

A BILL FOR AN ACT ENTITLED: "AN ACT TO SET THE MAXIMUM FINANCE CHARGE FOR RETAIL INSTALLMENT SALES OF ANY MANUFACTURED STRUCTURE OR RECREATIONAL VEHICLE AT \$9 PER \$100 PER YEAR; DEFINING MANUFACTURED STRUCTURE AND RECREATIONAL VEHICLE; AMENDING SECTIONS 31-1-202 AND 31-1-241, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 31-1-202, MCA, is amended to read:

"31-1-202. Definitions. (1) Unless the context requires otherwise, in this part the following definitions apply:

(a) "Cash sale price" means the price stated in a retail installment contract or in a sales slip or other memorandum furnished by a retail seller to a retail buyer under or in connection with a retail charge account agreement for which the seller would have sold or furnished to the buyer and the buyer would have bought or obtained from the seller the goods or services which are the subject matter of the retail installment transaction, if the sale had been a sale for cash. The cash sale price may include any taxes, registration, certificate of title, license, and

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official fees and cash sale prices for services, if any, and for accessories and their installation and for delivering, servicing, repairing, or improving the goods.

(b) "Department" means the department of business regulation provided for in Title 2, chapter 15, part 18.

(c) "Finance charge" means the amount, as limited by 31-1-241, in addition to the principal balance, agreed upon between the buyer and the seller, to be paid by the buyer for the privilege of purchasing goods or services to be paid for by the buyer in one or more deferred installments.

(d) "Goods" means all chattels personal, including motor vehicles and merchandise certificates or coupons exchangeable for chattels personal but not including money or things in action. The term includes goods which, at the time of the sale or subsequently, are to be so affixed to realty as to become a part thereof, whether or not severable from it.

(e) "Holder" means the retail seller of the goods or services under the retail installment contract or retail charge account agreement or a person who establishes and administers retail charge account agreements with retail buyers; the assignee, if the retail installment contract or the retail charge account agreement or the balance in the account under either has been sold or otherwise transferred; or any other person entitled to the rights of the retail

1 seller under any retail installment contract or any retail
2 charge account agreement.

3 ~~(f) "Manufactured structure" means any structure,~~
4 ~~transportable in one or more sections, designed to be used~~
5 ~~as a single-family dwelling or commercial building with or~~
6 ~~without a permanent foundation when connected to the~~
7 ~~required utilities and includes the plumbing, heating, air~~
8 ~~conditioning, and electrical systems contained therein.~~

9 ~~(g)(i)~~ "Motor vehicle" means any new or used
10 automobile, ~~mobile---~~homev motorcycle, truck, trailer,
11 semitrailer, truck tractor, and all vehicles with any power,
12 other than muscular power, primarily designed or used to
13 transport persons or property on a public highway,
14 excepting, however, any vehicle which runs only on rails or
15 tracks or in the air.

16 ~~(g)(h)~~ "Official fees" means the fees prescribed by
17 law for filing, recording, or otherwise perfecting and
18 releasing or satisfying any title or lien retained or taken
19 by a seller in connection with a retail installment
20 transaction.

21 ~~(h)(i)~~ "Person" means an individual, partnership,
22 corporation, association, and any other group, however
23 organized.

24 ~~(i)(j)~~ "Principal balance" means the cash sale price
25 of the goods or services which are the subject matter of a

1 retail installment transaction plus the amounts, if any,
2 included in the sale, if a separate identified charge is
3 made therefor and stated in the contract, for insurance and
4 other benefits and official fees, minus the amount of the
5 buyer's down payment in money or goods.

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11 buys goods or obtains services from a retail seller in a
12 retail installment transaction and not for the purpose of
13 resale.

14 ~~(k)(m)~~ "Retail charge account agreement" means an
15 instrument in writing prescribing the terms of retail
16 installment transactions which may be made under it from
17 time to time under which a retail seller gives to a retail
18 buyer the privilege of using a credit card issued by the
19 retail seller or any other person or other credit
20 confirmation or identification for the purpose of purchasing
21 goods or services from the retail seller, from the retail
22 seller and any other person, or from a person licensed or
23 franchised by the retail seller and under the terms of which
24 a finance charge as defined in this section may be computed
25 in relation to the buyer's balance in the account from time

1 to time.

2 ~~(1)~~ "Retail installment contract" or "contract"
3 means an agreement evidencing a retail installment
4 transaction entered into in this state under which a buyer
5 promises to pay in one or more deferred installments the
6 time sale price of goods or services, or both. The term
7 includes a chattel mortgage, conditional sales contract, and
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9 bailee or lessee contracts to pay as compensation for its
10 use a sum substantially equivalent to or in excess of its
11 value and by which it is agreed that the bailee or lessee is
12 bound to become, or for no further or a merely nominal
13 consideration has the option of becoming, the owner of the
14 goods upon full compliance with the provisions of the
15 contract.

16 ~~(2)~~ "Retail installment transaction" means a
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21 ~~(3)~~ "Retail seller" or "seller" means a person who
22 sells goods or furnishes services to a retail buyer in a
23 written retail installment contract or written retail
24 installment transaction.

25 ~~(4)~~ "Sales finance company" means a person engaged,

1 in whole or in part, in the business of purchasing retail
2 installment contracts from one or more sellers. The term
3 includes but is not limited to a bank, trust company,
4 investment company, or savings and loan association, if so
5 engaged. The term does not include a person who makes only
6 isolated purchases of retail installment contracts, which
7 purchases are not being made in the course of repeated and
8 successive purchases of retail installment contracts from
9 the same seller.

10 ~~(5)~~ "Services" means work, labor, and services
11 furnished in the delivery, installation, servicing, repair,
12 or improvement of goods.

13 ~~(6)~~ "Time sale price" means the total of the cash
14 sale price of the goods or services and the amount, if any,
15 included for insurance and other benefits, if a separate
16 identified charge is made therefor, and the amounts of the
17 official fees and the finance charge.

18 (2) This part does not apply to the lending of money
19 by banks or other lending institutions and securing loans by
20 chattel mortgages of goods in the ordinary course of lending
21 by those banks or other lending institutions. However, this
22 part pertains to the extension of credit by those banks or
23 other lending institutions under retail installment
24 contracts or credit cards issued by those banks or other
25 lending institutions."

1 Section 2. Section 31-1-241, MCA, is amended to read:

2 "31-1-241. Finance charge limitation. (1)
3 Notwithstanding the provisions of any other law, the finance
4 charge included in a retail installment contract shall not
5 exceed the following schedule:

6 (a) as to motor vehicles:

7 (i) class 1--any new motor vehicle designated by the
8 manufacturer by a year model not earlier than the year in
9 which the sale is made, \$7 per \$100 per year;

10 (ii) class 2--any new motor vehicle not in class 1 and
11 any used motor vehicle designated by the manufacturer by a
12 year model of the same or not more than 2 years prior to the
13 year in which the sale is made, \$9 per \$100 per year;

14 (iii) class 3--any used motor vehicle not in class 2
15 and designated by the manufacturer by a year model more than
16 2 years prior to the year in which the sale is made, \$11 per
17 \$100 per year.

18 (b) as to any industrial or construction equipment
19 primarily designed for or used in construction, logging,
20 mining, or other industrial business, the price of which is
21 over \$5,000, \$9 per \$100 per year. This subsection shall not
22 apply to agricultural equipment.

23 ~~(c) as to any manufactured structure or recreational~~
24 ~~vehicle, \$9 per \$100 per year.~~

25 ~~(c)(d) as to services and goods other than as provided~~

1 under subsections (1)(a), ~~and (1)(b), and (1)(c)~~ above:

2 (i) on so much of the principal balance as does not
3 exceed \$300, \$11 per \$100 per year;

4 (ii) if the principal balance exceeds \$300 but is less
5 than \$1,000, \$9 per \$100 per year on that portion over \$300;

6 (iii) if the principal balance exceeds \$1,000, \$7 per
7 \$100 per year on that portion over \$1,000.

8 (2) Such finance charge shall be computed on the
9 principal balance as determined under 31-1-231(5) on
10 contracts payable in successive monthly payments
11 substantially equal in amount from the date of the contract
12 until the maturity of the final installment, notwithstanding
13 that the total time balance thereof is required to be paid
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16 (3) When a retail installment contract provides for
17 payment other than in equal successive monthly installments,
18 the finance charge may be a rate which will provide the same
19 yield as is permitted on monthly payment contracts under
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21 schedule of payments in the contract.

22 (4) Notwithstanding the provisions of any other law, a
23 retail charge account agreement may provide for and the
24 seller or holder may charge, collect, and receive a finance
25 charge as specified herein for the privilege of paying in

1 installments thereunder. The finance charge may be computed
2 from month to month (which need not be a calendar month) or
3 other regular billing cycle period by applying a rate not to
4 exceed 1 1/2% for each such monthly period to an amount (not
5 including any unpaid finance charge) not in excess of the
6 greatest of:

7 (a) the average daily balance in the account in the
8 billing cycle period;

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10 day of the billing cycle less the amount of purchases
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12 (c) the median amount within a \$10 range within which
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14 provided the seller applies the same rate of finance charge
15 to all such balances within such range.

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

20 Section 3. Effective date. This act is effective on
21 passage and approval.

-End-

1
 2 INTRODUCED BY *Assembly* BILL NO. *381*
Animal Services Board
Falvey

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 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO SET THE MAXIMUM
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 23 the retail charge account agreement or the balance in the
 24 account under either has been sold or otherwise transferred;
 25 or any other person entitled to the rights of the retail

1 seller under any retail installment contract or any retail
2 charge account agreement.

3 (f) "Manufactured structure" means any structure,
4 transportable in one or more sections, designed to be used
5 as a single-family dwelling or commercial building with or
6 without a permanent foundation when connected to the
7 required utilities and includes the plumbing, heating, air
8 conditioning, and electrical systems contained therein.

9 (g) "Motor vehicle" means any new or used
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12 other than muscular power, primarily designed or used to
13 transport persons or property on a public highway,
14 excepting, however, any vehicle which runs only on rails or
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6 (k) "Recreational vehicle" means a vehicular type unit
7 that either has its own motor power or is mounted on or
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9 living quarters for recreational, camping, or travel use.

10 (l) "Retail buyer" or "buyer" means a person who
11 buys goods or obtains services from a retail seller in a
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13 resale.

14 (m) "Retail charge account agreement" means an
15 instrument in writing prescribing the terms of retail
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17 time to time under which a retail seller gives to a retail
18 buyer the privilege of using a credit card issued by the
19 retail seller or any other person or other credit
20 confirmation or identification for the purpose of purchasing
21 goods or services from the retail seller, from the retail
22 seller and any other person, or from a person licensed or
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24 a finance charge as defined in this section may be computed
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2 (f)(n) "Retail installment contract" or "contract"
3 means an agreement evidencing a retail installment
4 transaction entered into in this state under which a buyer
5 promises to pay in one or more deferred installments the
6 time sale price of goods or services, or both. The term
7 includes a chattel mortgage, conditional sales contract, and
8 a contract for the bailment or leasing of goods by which the
9 bailee or lessee contracts to pay as compensation for its
10 use a sum substantially equivalent to or in excess of its
11 value and by which it is agreed that the bailee or lessee is
12 bound to become, or for no further or a merely nominal
13 consideration has the option of becoming, the owner of the
14 goods upon full compliance with the provisions of the
15 contract.

16 (m)(o) "Retail installment transaction" means a
17 written contract to sell or furnish, or the sale or
18 furnishing of, goods or services by a retail seller to a
19 retail buyer pursuant to a retail charge account agreement
20 or under a retail installment contract.

21 (n)(p) "Retail seller" or "seller" means a person who
22 sells goods or furnishes services to a retail buyer in a
23 written retail installment contract or written retail
24 installment transaction.

25 (o)(q) "Sales finance company" means a person engaged,

1 in whole or in part, in the business of purchasing retail
2 installment contracts from one or more sellers. The term
3 includes but is not limited to a bank, trust company,
4 investment company, or savings and loan association, if so
5 engaged. The term does not include a person who makes only
6 isolated purchases of retail installment contracts, which
7 purchases are not being made in the course of repeated and
8 successive purchases of retail installment contracts from
9 the same seller.

10 (p)(r) "Services" means work, labor, and services
11 furnished in the delivery, installation, servicing, repair,
12 or improvement of goods.

13 (q)(s) "Time sale price" means the total of the cash
14 sale price of the goods or services and the amount, if any,
15 included for insurance and other benefits, if a separate
16 identified charge is made therefor, and the amounts of the
17 official fees and the finance charge.

18 (2) This part does not apply to the lending of money
19 by banks or other lending institutions and securing loans by
20 chattel mortgages of goods in the ordinary course of lending
21 by those banks or other lending institutions. However, this
22 part pertains to the extension of credit by those banks or
23 other lending institutions under retail installment
24 contracts or credit cards issued by those banks or other
25 lending institutions."

1 Section 2. Section 31-1-241, MCA, is amended to read:

2 "31-1-241. Finance charge limitation. (1)
3 Notwithstanding the provisions of any other law, the finance
4 charge included in a retail installment contract shall not
5 exceed the following schedule:

6 (a) as to motor vehicles:

7 (i) class 1--any new motor vehicle designated by the
8 manufacturer by a year model not earlier than the year in
9 which the sale is made, \$7 per \$100 per year;

10 (ii) class 2--any new motor vehicle not in class 1 and
11 any used motor vehicle designated by the manufacturer by a
12 year model of the same or not more than 2 years prior to the
13 year in which the sale is made, \$9 per \$100 per year;

14 (iii) class 3--any used motor vehicle not in class 2
15 and designated by the manufacturer by a year model more than
16 2 years prior to the year in which the sale is made, \$11 per
17 \$100 per year.

18 (b) as to any industrial or construction equipment
19 primarily designed for or used in construction, logging,
20 mining, or other industrial business, the price of which is
21 over \$5,000, \$9 per \$100 per year. This subsection shall not
22 apply to agricultural equipment.

23 (c) as to any manufactured structure or recreational
24 vehicles, \$9 per \$100 per year.

25 (c)(d) as to services and goods other than as provided

1 under subsections (1)(a), and (1)(b), and (1)(c) above:

2 (i) on so much of the principal balance as does not
3 exceed \$300, \$11 per \$100 per year;

4 (ii) if the principal balance exceeds \$300 but is less
5 than \$1,000, \$9 per \$100 per year on that portion over \$300;

6 (iii) if the principal balance exceeds \$1,000, \$7 per
7 \$100 per year on that portion over \$1,000.

8 (2) Such finance charge shall be computed on the
9 principal balance as determined under 31-1-231(5) on
10 contracts payable in successive monthly payments
11 substantially equal in amount from the date of the contract
12 until the maturity of the final installment, notwithstanding
13 that the total time balance thereof is required to be paid
14 in installments. A minimum finance charge of \$20 may be
15 charged on any retail installment contract.

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

22 (4) Notwithstanding the provisions of any other law, a
23 retail charge account agreement may provide for and the
24 seller or holder may charge, collect, and receive a finance
25 charge as specified herein for the privilege of paying in

1 installments thereunder. The finance charge may be computed
2 from month to month (which need not be a calendar month) or
3 other regular billing cycle period by applying a rate not to
4 exceed 1 1/2% for each such monthly period to an amount (not
5 including any unpaid finance charge) not in excess of the
6 greatest of:

7 (a) the average daily balance in the account in the
8 billing cycle period;

9 (b) the ending balance of the account as of the last
10 day of the billing cycle less the amount of purchases
11 charged to the account during that billing cycle; or

12 (c) the median amount within a \$10 range within which
13 such average daily balance or beginning balance falls,
14 provided the seller applies the same rate of finance charge
15 to all such balances within such range.

16 (5) If the finance charge so determined pursuant to
17 (4) above for such monthly period is less than 50 cents, a
18 maximum finance charge not in excess of 50 cents may be
19 charged, received, and collected for such period.*

20 Section 3. Effective date. This act is effective on
21 passage and approval.

-End-

1 SENATE BILL NO. 381
 2 INTRODUCED BY HINSL, SEVERSON, GOODOVER, FABREGA
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO SET THE MAXIMUM
 5 FINANCE CHARGE FOR RETAIL INSTALLMENT SALES OF ANY
 6 MANUFACTURED STRUCTURE OR RECREATIONAL VEHICLE AT \$9 PER
 7 \$100 PER YEAR; DEFINING MANUFACTURED STRUCTURE AND
 8 RECREATIONAL VEHICLE; AMENDING SECTIONS 31-1-202 AND
 9 31-1-241, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 31-1-202, MCA, is amended to read:
 13 "31-1-202. Definitions. (1) Unless the context
 14 requires otherwise, in this part the following definitions
 15 apply:

16 (a) "Cash sale price" means the price stated in a
 17 retail installment contract or in a sales slip or other
 18 memorandum furnished by a retail seller to a retail buyer
 19 under or in connection with a retail charge account
 20 agreement for which the seller would have sold or furnished
 21 to the buyer and the buyer would have bought or obtained
 22 from the seller the goods or services which are the subject
 23 matter of the retail installment transaction, if the sale
 24 had been a sale for cash. The cash sale price may include
 25 any taxes, registration, certificate of title, license, and

1 official fees and cash sale prices for services, if any, and
 2 for accessories and their installation and for delivering,
 3 servicing, repairing, or improving the goods.

4 (b) "Department" means the department of business
 5 regulation provided for in Title 2, chapter 15, part 18.

6 (c) "Finance charge" means the amount, as limited by
 7 31-1-241, in addition to the principal balance, agreed upon
 8 between the buyer and the seller, to be paid by the buyer
 9 for the privilege of purchasing goods or services to be paid
 10 for by the buyer in one or more deferred installments.

11 (d) "Goods" means all chattels personal, including
 12 motor vehicles and merchandise certificates or coupons
 13 exchangeable for chattels personal but not including money
 14 or things in action. The term includes goods which, at the
 15 time of the sale or subsequently, are to be so affixed to
 16 realty as to become a part thereof, whether or not severable
 17 from it.

18 (e) "Holder" means the retail seller of the goods or
 19 services under the retail installment contract or retail
 20 charge account agreement or a person who establishes and
 21 administers retail charge account agreements with retail
 22 buyers; the assignee, if the retail installment contract or
 23 the retail charge account agreement or the balance in the
 24 account under either has been sold or otherwise transferred;
 25 or any other person entitled to the rights of the retail

1 seller under any retail installment contract or any retail
2 charge account agreement.

3 (f) "Manufactured structure" means any structure
4 transportable in one or more sections, designed to be used
5 as a single-family dwelling or commercial building with or
6 without a permanent foundation when connected to the
7 required utilities and includes the plumbing, heating, air
8 conditioning, and electrical systems contained therein.

9 (g)(1) "Motor vehicle" means any new or used
10 automobile, ~~mobile~~ motorcycle, truck, trailer,
11 semitrailer, truck tractor, and all vehicles with any power,
12 other than muscular power, primarily designed or used to
13 transport persons or property on a public highway,
14 excepting, however, any vehicle which runs only on rails or
15 tracks or in the air.

16 (g)(h) "Official fees" means the fees prescribed by
17 law for filing, recording, or otherwise perfecting and
18 releasing or satisfying any title or lien retained or taken
19 by a seller in connection with a retail installment
20 transaction.

21 (h)(1) "Person" means an individual, partnership,
22 corporation, association, and any other group, however
23 organized.

24 (i)(1) "Principal balance" means the cash sale price
25 of the goods or services which are the subject matter of a

1 retail installment transaction plus the amounts, if any,
2 included in the sale, if a separate identified charge is
3 made therefor and stated in the contract, for insurance and
4 other benefits and official fees, minus the amount of the
5 buyer's down payment in money or goods.

6 (k) "Recreational vehicle" means a vehicular type unit
7 that either has its own motor power or is mounted on or
8 drawn by another vehicle, primarily designed as temporary
9 living quarters for recreational, camping, or travel use.

10 (j)(1) "Retail buyer" or "buyer" means a person who
11 buys goods or obtains services from a retail seller in a
12 retail installment transaction and not for the purpose of
13 resale.

14 (k)(1) "Retail charge account agreement" means an
15 instrument in writing prescribing the terms of retail
16 installment transactions which may be made under it from
17 time to time under which a retail seller gives to a retail
18 buyer the privilege of using a credit card issued by the
19 retail seller or any other person or other credit
20 confirmation or identification for the purpose of purchasing
21 goods or services from the retail seller, from the retail
22 seller and any other person, or from a person licensed or
23 franchised by the retail seller and under the terms of which
24 a finance charge as defined in this section may be computed
25 in relation to the buyer's balance in the account from time

1 to time.

2 †††(n) "Retail installment contract" or "contract"
3 means an agreement evidencing a retail installment
4 transaction entered into in this state under which a buyer
5 promises to pay in one or more deferred installments the
6 time sale price of goods or services, or both. The term
7 includes a chattel mortgage, conditional sales contract, and
8 a contract for the bailment or leasing of goods by which the
9 bailee or lessee contracts to pay as compensation for its
10 use a sum substantially equivalent to or in excess of its
11 value and by which it is agreed that the bailee or lessee is
12 bound to become, or for no further or a merely nominal
13 consideration has the option of becoming, the owner of the
14 goods upon full compliance with the provisions of the
15 contract.

16 †††(o) "Retail installment transaction" means a
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21 †††(p) "Retail seller" or "seller" means a person who
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23 written retail installment contract or written retail
24 installment transaction.

25 †††(q) "Sales finance company" means a person engaged,

1 in whole or in part, in the business of purchasing retail
2 installment contracts from one or more sellers. The term
3 includes but is not limited to a bank, trust company,
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5 engaged. The term does not include a person who makes only
6 isolated purchases of retail installment contracts, which
7 purchases are not being made in the course of repeated and
8 successive purchases of retail installment contracts from
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10 †††(r) "Services" means work, labor, and services
11 furnished in the delivery, installation, servicing, repair,
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14 sale price of the goods or services and the amount, if any,
15 included for insurance and other benefits, if a separate
16 identified charge is made therefor, and the amounts of the
17 official fees and the finance charge.

18 (2) This part does not apply to the lending of money
19 by banks or other lending institutions and securing loans by
20 chattel mortgages of goods in the ordinary course of lending
21 by those banks or other lending institutions. However, this
22 part pertains to the extension of credit by those banks or
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10 (ii) class 2--any new motor vehicle not in class 1 and
11 any used motor vehicle designated by the manufacturer by a
12 year model of the same or not more than 2 years prior to the
13 year in which the sale is made, \$9 per \$100 per year;

14 (iii) class 3--any used motor vehicle not in class 2
15 and designated by the manufacturer by a year model more than
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18 (b) as to any industrial or construction equipment
19 primarily designed for or used in construction, logging,
20 mining, or other industrial business, the price of which is
21 over \$5,000, \$9 per \$100 per year. This subsection shall not
22 apply to agricultural equipment.

23 ~~(c) as to any manufactured structure or recreational~~
24 ~~vehicles, \$9 per \$100 per year.~~

25 ~~(c)(d) as to services and goods other than as provided~~

1 under subsections (1)(a), and (1)(b), and (1)(c) above:

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3 exceed \$300, \$11 per \$100 per year;

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17 payment other than in equal successive monthly installments,
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19 yield as is permitted on monthly payment contracts under
20 subsections (1) and (2) hereof, having due regard for the
21 schedule of payments in the contract.

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23 retail charge account agreement may provide for and the
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8 billing cycle period;

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14 provided the seller applies the same rate of finance charge
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16 (5) If the finance charge so determined pursuant to
17 (4) above for such monthly period is less than 50 cents, a
18 maximum finance charge not in excess of 50 cents may be
19 charged, received, and collected for such period."

20 Section 3. Effective date. This act is effective on
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-End-