

Senate Bill 420

In The Senate

February 10, 1981	Introduced and referred to Committee on Business and Industry.
February 20, 1981	Committee recommend bill do pass.
February 21, 1981	Bill printed and placed on members' desks.
February 23, 1981	Second reading pass consideration.
	On motion taken from second reading and referred to Committee on Judiciary. Motion adopted.
April 23, 1981	Died in Committee.

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*Amend* BILL NO. *420*

INTRODUCED BY *Judiciary Committee*

BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE APPLICABILITY OF THE RETAIL INSTALLMENT SALES ACT; AMENDING SECTION 31-1-202, MCA."

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 official fees and cash sale prices for services, if any, and for accessories and their installation and for delivering,

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

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

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

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

17 (i) "Person" means an individual, partnership,  
18 corporation, association, and any other group, however  
19 organized.

20 (j) "Principal balance" means the cash sale price of  
21 the goods or services which are the subject matter of a  
22 retail installment transaction plus the amounts, if any,  
23 included in the sale, if a separate identified charge is  
24 made therefor and stated in the contract, for insurance and  
25 other benefits and official fees, minus the amount of the

1 buyer's down payment in money or goods.

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

6 (l) "Retail buyer" or "buyer" means a person who buys  
7 goods or obtains services from a retail seller in a retail  
8 installment transaction and not for the purpose of resale.

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

22 (n) "Retail installment contract" or "contract" means  
23 an agreement evidencing a retail installment transaction  
24 entered into in this state under which a buyer promises to  
25 pay in one or more deferred installments the time sale price

1 of goods or services, or both. The term includes a chattel  
 2 mortgage, conditional sales contract, and a contract for the  
 3 bailment or leasing of goods by which the bailee or lessee  
 4 contracts to pay as compensation for its use a sum  
 5 substantially equivalent to or in excess of its value and by  
 6 which it is agreed that the bailee or lessee is bound to  
 7 become, or for no further or a merely nominal consideration  
 8 has the option of becoming, the owner of the goods upon full  
 9 compliance with the provisions of the contract.

10 (o) "Retail installment transaction" means a written  
 11 contract to sell or furnish, or the sale or furnishing of,  
 12 goods or services by a retail seller to a retail buyer  
 13 pursuant to a retail charge account agreement or under a  
 14 retail installment contract.

15 (p) "Retail seller" or "seller" means a person who  
 16 sells goods or furnishes services to a retail buyer in a  
 17 written retail installment contract or written retail  
 18 installment transaction.

19 (q) "Sales finance company" means a person engaged, in  
 20 whole or in part, in the business of purchasing retail  
 21 installment contracts from one or more sellers. The term  
 22 includes but is not limited to a bank, trust company,  
 23 investment company, or savings and loan association, if so  
 24 engaged. The term does not include a person who makes only  
 25 isolated purchases of retail installment contracts, which

1 purchases are not being made in the course of repeated and  
 2 successive purchases of retail installment contracts from  
 3 the same seller.

4 (r) "Services" means work, labor, and services  
 5 furnished in the delivery, installation, servicing, repair,  
 6 or improvement of goods.

7 (s) "Time sale price" means the total of the cash sale  
 8 price of the goods or services and the amount, if any,  
 9 included for insurance and other benefits, if a separate  
 10 identified charge is made therefor, and the amounts of the  
 11 official fees and the finance charge.

12 (2) This part does not apply to:

13 ~~(a) persons who are not engaged in a commercial retail~~  
 14 ~~enterprise and who do not regularly extend or arrange for~~  
 15 ~~the extension of credit payable by agreement in installments~~  
 16 ~~or for which payment of a finance charge is or may be~~  
 17 ~~required; or~~

18 (b) the lending of money by banks or other lending  
 19 institutions and securing loans by chattel mortgages of  
 20 goods in the ordinary course of lending by those banks or  
 21 other lending institutions. However, this part pertains to  
 22 the extension of credit by those banks or other lending  
 23 institutions under retail installment contracts or credit  
 24 cards issued by those banks or other lending institutions."

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Approved by Committee  
on Business and Industry

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19 administers retail charge account agreements with retail  
20 buyers; the assignee, if the retail installment contract or  
21 the retail charge account agreement or the balance in the  
22 account under either has been sold or otherwise transferred;  
23 or any other person entitled to the rights of the retail  
24 seller under any retail installment contract or any retail  
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-End-

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SB 420