

IN THE SENATE

MARCH 21, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 23, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 Senate BILL NO. 245
 2 INTRODUCED BY Robert Meyer
 3 E. Smith
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT
 5 COMPUTATION OF FINANCE CHARGES ON RETAIL CHARGE ACCOUNT
 6 AGREEMENTS BE BASED ON THE AVERAGE BALANCE OF THE ACCOUNT
 7 RATHER THAN THE ENDING BALANCE; AND AMENDING SECTIONS
 8 31-1-202 AND 31-1-241, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 31-1-202, MCA, is amended to read:
 12 "31-1-202. Definitions. (1) Unless the context
 13 requires otherwise, in this part the following definitions
 14 apply:
 15 (a) "Cash sale price" means the price stated in a
 16 retail installment contract or in a sales slip or other
 17 memorandum furnished by a retail seller to a retail buyer
 18 under or in connection with a retail charge account
 19 agreement for which the seller would have sold or furnished
 20 to the buyer and the buyer would have bought or obtained
 21 from the seller the goods or services which are the subject
 22 matter of the retail installment transaction, if the sale
 23 had been a sale for cash. The cash sale price may include
 24 any taxes, registration, certificate of title, license, and
 25 official fees and cash sale prices for services, if any, and

1 for accessories and their installation and for delivering,
 2 servicing, repairing, or improving the goods.
 3 (b) "Department" means the department of commerce
 4 provided for in Title 2, chapter 15, part 18.
 5 (c) "Finance charge" means the amount, as limited by
 6 31-1-241, in addition to the principal balance, agreed upon
 7 between the buyer and the seller, to be paid by the buyer
 8 for the privilege of purchasing goods or services to be paid
 9 for by the buyer in one or more deferred installments.
 10 (d) "Goods" means all chattels personal, including
 11 motor vehicles and merchandise certificates or coupons
 12 exchangeable for chattels personal but not including money
 13 or things in action. The term includes goods which, at the
 14 time of the sale or subsequently, are to be so affixed to
 15 realty as to become a part thereof, whether or not severable
 16 from it.
 17 (e) "Holder" means the retail seller of the goods or
 18 services under the retail installment contract or retail
 19 charge account agreement or a person who establishes and
 20 administers retail charge account agreements with retail
 21 buyers; the assignee, if the retail installment contract or
 22 the retail charge account agreement or the balance in the
 23 account under either has been sold or otherwise transferred;
 24 or any other person entitled to the rights of the retail
 25 seller under any retail installment contract or any retail



1 charge account agreement.

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

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

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

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

22 (j) "Principal balance" means the cash sale price of
23 the goods or services which are the subject matter of a
24 retail installment transaction plus the amounts, if any,
25 included in the sale, if a separate identified charge is

1 made therefor and stated in the contract, for insurance and
2 other benefits and official fees, minus the amount of the
3 buyer's down payment in money or goods.

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

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

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

24 (n) "Retail installment contract" or "contract" means
25 an agreement evidencing a retail installment transaction

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

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

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

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

1 engaged. The term does not include a person who makes only
 2 isolated purchases of retail installment contracts, which
 3 purchases are not being made in the course of repeated and
 4 successive purchases of retail installment contracts from
 5 the same seller.

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

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

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

22 Section 2. Section 31-1-241, MCA, is amended to read:
 23 "31-1-241. Finance charge limitation. (1)
 24 Notwithstanding the provisions of any other law, the finance
 25 charge included in a retail installment contract shall be at

1 a rate agreed upon by the retail seller and the buyer.

2 (2) Notwithstanding the provisions of any other law,
3 the finance charge included in a retail charge account
4 agreement shall be at a rate agreed upon by the retail
5 seller and the buyer. The finance charge shall be computed
6 from month to month (which need not be a calendar month) or
7 other regular billing cycle period by using the ~~ending~~
8 average balance of the account ~~as-of-the-last-day-of~~ during
9 the billing cycle ~~less~~ without including in the computation
10 the amount of purchases charged to the account during that
11 billing cycle.

12 (3) A seller may change the terms of a revolving
13 charge account whether or not the change is authorized by
14 prior agreement. The seller shall give the buyer written
15 notice of any change in the two billing cycles prior to the
16 effective date of the change.

17 (4) If the retail seller increases his finance charge
18 on a retail charge account agreement, then such increased
19 rate may only be applied to the balance consisting of
20 purchases on other charges incurred on or after the
21 effective date of the increase.

22 (5) For purposes of determining the balance to which
23 the increased rate applies, all payments may be considered
24 to be applied to the balance existing prior to the change in
25 rate until that balance is paid in full.

1 (6) If the finance charge determined pursuant to
2 subsection (2) for a monthly period is less than 50 cents, a
3 maximum finance charge not in excess of 50 cents may be
4 charged and collected for such period."

-End-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

SENATE BILL NO. 245

INTRODUCED BY KOLSTAD, MEYER, MCCALLUM, LYNCH, GALT,
B. WILLIAMS, E. SMITH, GAGE, BISHOP, THAYER, WEEDING,
JENKINS, IVERSON, PECK, BACHINI, WALKER

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT
COMPUTATION OF FINANCE CHARGES ON RETAIL CHARGE ACCOUNT
AGREEMENTS BE BASED ON THE AVERAGE DAILY BALANCE OF THE
ACCOUNT RATHER THAN THE ENDING BALANCE; AND AMENDING
SECTIONS 31-1-202 AND 31-1-241, MCA; AND PROVIDING AN
APPLICABILITY 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
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 commerce
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



1 account under either has been sold or otherwise transferred;
 2 or any other person entitled to the rights of the retail
 3 seller under any retail installment contract or any retail
 4 charge account agreement.

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

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

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

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

25 (j) "Principal balance" means the cash sale price of

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

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

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

1 account ~~from-time-to-time~~ during the billing cycle.

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

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

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

24 (q) "Sales finance company" means a person engaged, in
25 whole or in part, in the business of purchasing retail

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

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

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

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

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

1 "31-1-241. Finance charge limitation. (1)
 2 Notwithstanding the provisions of any other law, the finance
 3 charge included in a retail installment contract shall be at
 4 a rate agreed upon by the retail seller and the buyer.

5 (2) Notwithstanding the provisions of any other law,
 6 the finance charge included in a retail charge account
 7 agreement shall be at a rate agreed upon by the retail
 8 seller and the buyer. The finance charge shall be computed
 9 from month to month (which need not be a calendar month) or
 10 other regular billing cycle period by using the ~~ending~~
 11 average DAILY balance of the account ~~as-of-the-last--day--of~~
 12 during the billing cycle ~~less~~ without including in the
 13 computation the amount of purchases charged to the account
 14 during that billing cycle.

15 (3) A seller may change the terms of a revolving
 16 charge account whether or not the change is authorized by
 17 prior agreement. The seller shall give the buyer written
 18 notice of any change in the two billing cycles prior to the
 19 effective date of the change.

20 (4) If the retail seller increases his finance charge
 21 on a retail charge account agreement, then such increased
 22 rate may only be applied to the balance consisting of
 23 purchases on other charges incurred on or after the
 24 effective date of the increase.

25 (5) For purposes of determining the balance to which

1 the increased rate applies, all payments may be considered
 2 to be applied to the balance existing prior to the change in
 3 rate until that balance is paid in full.

4 (6) If the finance charge determined pursuant to
 5 subsection (2) for a monthly period is less than 50 cents, a
 6 maximum finance charge not in excess of 50 cents may be
 7 charged and collected for such period."

8 NEW SECTION. SECTION 3. APPLICABILITY. THIS ACT
 9 APPLIES TO FINANCE CHARGES COMPUTED ON OR AFTER OCTOBER 1,
 10 1987.

-End-

1 SENATE BILL NO. 245

2 INTRODUCED BY KOLSTAD, MEYER, MCCALLUM, LYNCH, GALT,
3 B. WILLIAMS, E. SMITH, GAGE, BISHOP, THAYER, WEEDING,
4 JENKINS, IVERSON, PECK, BACHINI, WALKER

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT
7 COMPUTATION OF FINANCE CHARGES ON RETAIL CHARGE ACCOUNT
8 AGREEMENTS BE BASED ON THE AVERAGE DAILY BALANCE OF THE
9 ACCOUNT RATHER THAN THE ENDING BALANCE; AND AMENDING
10 SECTIONS 31-1-202 AND 31-1-241, MCA; AND PROVIDING AN
11 APPLICABILITY DATE."

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

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

15 "31-1-202. Definitions. (1) Unless the context
16 requires otherwise, in this part the following definitions
17 apply:

18 (a) "Cash sale price" means the price stated in a
19 retail installment contract or in a sales slip or other
20 memorandum furnished by a retail seller to a retail buyer
21 under or in connection with a retail charge account
22 agreement for which the seller would have sold or furnished
23 to the buyer and the buyer would have bought or obtained
24 from the seller the goods or services which are the subject
25 matter of the retail installment transaction, if the sale

1 had been a sale for cash. The cash sale price may include
2 any taxes, registration, certificate of title, license, and
3 official fees and cash sale prices for services, if any, and
4 for accessories and their installation and for delivering,
5 servicing, repairing, or improving the goods.

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

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

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

20 (e) "Holder" means the retail seller of the goods or
21 services under the retail installment contract or retail
22 charge account agreement or a person who establishes and
23 administers retail charge account agreements with retail
24 buyers; the assignee, if the retail installment contract or
25 the retail charge account agreement or the balance in the



1 account under either has been sold or otherwise transferred;
 2 or any other person entitled to the rights of the retail
 3 seller under any retail installment contract or any retail
 4 charge account agreement.

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

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

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

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

25 (j) "Principal balance" means the cash sale price of

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

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

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

1 account from-time-to-time during the billing cycle.

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

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

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

24 (q) "Sales finance company" means a person engaged, in
25 whole or in part, in the business of purchasing retail

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

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

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

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

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

1 "31-1-241. Finance charge limitation. (1)
 2 Notwithstanding the provisions of any other law, the finance
 3 charge included in a retail installment contract shall be at
 4 a rate agreed upon by the retail seller and the buyer.

5 (2) Notwithstanding the provisions of any other law,
 6 the finance charge included in a retail charge account
 7 agreement shall be at a rate agreed upon by the retail
 8 seller and the buyer. The finance charge shall be computed
 9 from month to month (which need not be a calendar month) or
 10 other regular billing cycle period by using the ending
 11 average DAILY balance of the account ~~as-of-the-last--day--of~~
 12 during the billing cycle less without including in the
 13 computation the amount of purchases charged to the account
 14 during that billing cycle.

15 (3) A seller may change the terms of a revolving
 16 charge account whether or not the change is authorized by
 17 prior agreement. The seller shall give the buyer written
 18 notice of any change in the two billing cycles prior to the
 19 effective date of the change.

20 (4) If the retail seller increases his finance charge
 21 on a retail charge account agreement, then such increased
 22 rate may only be applied to the balance consisting of
 23 purchases on other charges incurred on or after the
 24 effective date of the increase.

25 (5) For purposes of determining the balance to which

1 the increased rate applies, all payments may be considered
 2 to be applied to the balance existing prior to the change in
 3 rate until that balance is paid in full.

4 (6) If the finance charge determined pursuant to
 5 subsection (2) for a monthly period is less than 50 cents, a
 6 maximum finance charge not in excess of 50 cents may be
 7 charged and collected for such period."

8 NEW SECTION. SECTION 3. APPLICABILITY. THIS ACT
 9 APPLIES TO FINANCE CHARGES COMPUTED ON OR AFTER OCTOBER 1,
 10 1987.

-End-

1 SENATE BILL NO. 245

2 INTRODUCED BY KOLSTAD, MEYER, MCCALLUM, LYNCH, GALT,
3 B. WILLIAMS, E. SMITH, GAGE, BISHOP, THAYER, WEEDING,
4 JENKINS, IVERSON, PECK, BACHINI, WALKER

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE--THAT ALLOW
7 THE COMPUTATION OF FINANCE CHARGES ON RETAIL CHARGE ACCOUNT
8 AGREEMENTS TO BE BASED ON THE AVERAGE DAILY BALANCE OF THE
9 ACCOUNT RATHER--THAN OR THE ENDING BALANCE; AND AMENDING
10 SECTIONS 31-1-202 AND 31-1-241, MCA; AND PROVIDING AN
11 APPLICABILITY DATE."

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

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

15 "31-1-202. Definitions. (1) Unless the context
16 requires otherwise, in this part the following definitions
17 apply:

18 (a) "Cash sale price" means the price stated in a
19 retail installment contract or in a sales slip or other
20 memorandum furnished by a retail seller to a retail buyer
21 under or in connection with a retail charge account
22 agreement for which the seller would have sold or furnished
23 to the buyer and the buyer would have bought or obtained
24 from the seller the goods or services which are the subject
25 matter of the retail installment transaction, if the sale

1 had been a sale for cash. The cash sale price may include
2 any taxes, registration, certificate of title, license, and
3 official fees and cash sale prices for services, if any, and
4 for accessories and their installation and for delivering,
5 servicing, repairing, or improving the goods.

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

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

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

20 (e) "Holder" means the retail seller of the goods or
21 services under the retail installment contract or retail
22 charge account agreement or a person who establishes and
23 administers retail charge account agreements with retail
24 buyers; the assignee, if the retail installment contract or
25 the retail charge account agreement or the balance in the

1 account under either has been sold or otherwise transferred;
 2 or any other person entitled to the rights of the retail
 3 seller under any retail installment contract or any retail
 4 charge account agreement.

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

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

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

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

25 (j) "Principal balance" means the cash sale price of

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

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

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

1 ~~account from-time-to-time during the billing cycle OR THE~~
 2 ~~BUYER'S BALANCE FROM TIME TO TIME.~~

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

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

21 (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 (q) "Sales finance company" means a person engaged, in

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

13 (s) "Time sale price" means the total of the cash sale
 14 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 be at
5 a rate agreed upon by the retail seller and the buyer.

6 (2) Notwithstanding the provisions of any other law,
7 the finance charge included in a retail charge account
8 agreement shall be at a rate agreed upon by the retail
9 seller and the buyer. ~~The~~

10 (A) EXCEPT AS PROVIDED IN SUBSECTION (2)(B), THE
11 finance charge shall be computed from month to month (which
12 need not be a calendar month) or other regular billing cycle
13 period by using the ending average DAILY balance of the
14 account as-of-the-last-day-of during the billing cycle less
15 without including in the computation the amount of purchases
16 charged to the account during that billing cycle.

17 (B) NOTHING IN THIS SECTION PREVENTS A RETAIL SELLER
18 AND A BUYER FROM AGREEING TO THE COMPUTATION OF THE FINANCE
19 CHARGE BY USING THE ENDING BALANCE OF THE ACCOUNT AS OF THE
20 LAST DAY OF THE BILLING CYCLE PERIOD LESS THE AMOUNT OF
21 PURCHASES CHARGED TO THE ACCOUNT DURING THAT BILLING CYCLE.

22 (3) A seller may change the terms of a revolving
23 charge account whether or not the change is authorized by
24 prior agreement. The seller shall give the buyer written
25 notice of any change in the two billing cycles prior to the

1 effective date of the change.

2 (4) If the retail seller increases his finance charge
3 on a retail charge account agreement, then such increased
4 rate may only be applied to the balance consisting of
5 purchases on other charges incurred on or after the
6 effective date of the increase.

7 (5) For purposes of determining the balance to which
8 the increased rate applies, all payments may be considered
9 to be applied to the balance existing prior to the change in
10 rate until that balance is paid in full.

11 (6) If the finance charge determined pursuant to
12 subsection (2) for a monthly period is less than 50 cents, a
13 maximum finance charge not in excess of 50 cents may be
14 charged and collected for such period."

15 NEW SECTION. SECTION 3. APPLICABILITY. THIS ACT
16 APPLIES TO FINANCE CHARGES COMPUTED ON OR AFTER OCTOBER 1,
17 1987.

-End-

STANDING COMMITTEE REPORT

HOUSE

MARCH 5 19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report SENATE BILL NO. 245

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached


REP. LES KITSELMAN

Chairman

AMENDMENTS AS FOLLOWS:

1) Title, line 6

Strike: "REQUIRE THAT"

Insert: "ALLOW THE"

2) Title, line 9

Strike: "RATHER THAN"

Insert: "OR"

3) Page 5, line 1

Following: "cycle"

Insert: "or the buyer's balance from time to time"

4) Page 7, line 8

Following: "buyer"

Strike: "The"

Insert: "(a) Except as provided in subsection (2)(b), the"

5) Page 7, line 15

Following: line 14

Insert: "(b) Nothing in this section prevents a retail seller and buyer from agreeing to the computation of the finance charge by using the ending balance of the account as of the last day of the billing cycle period less the amount of purchases charged to the account during that billing cycle."