

CHAPTER 270, Laws of 1977

AN ACT to repeal 218.01 (1) (ha); to amend 218.01 (5) (a) and (6) (b) (intro.) and 1 to 7, (d), (e) and (g); and to repeal and recreate 218.01 (1) (i) of the statutes, relating to maximum finance charges in retail instalment sales of motor vehicles.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 218.01 (1) (ha) of the statutes is repealed.

SECTION 2. 218.01 (1) (i) of the statutes is repealed and recreated to read:

218.01 (1) (i) "Finance charge" has the meaning set forth in s. 421.301 (20).

SECTION 3. 218.01 (5) (a) and (6) (b) (intro.) and 1 to 7, (d), (e) and (g) of the statutes are amended to read:

218.01 (5) (a) The licensor shall promote the interests of retail buyers of motor vehicles relating to default, delinquency, repossession or collection charges and the refund of the ~~time price differential finance charge~~ and insurance premium on prepayment of the instalment contract. It ~~shall have power to~~ may define unfair practices in the motor vehicle industry and trade between licensees or between any licensees and retail buyers of motor vehicles, but ~~such power shall~~ may not include the power to limit the price at which licensees may sell, assign or transfer receivables, contracts or other evidence of any obligation arising out of an instalment sale made ~~pursuant to~~ under this section.

(6) (b) (intro.) Prior to or concurrent with any instalment sale, the seller shall deliver to the buyer a written statement describing clearly the motor vehicle sold to the buyer, the cash sale price ~~thereof~~, the cash paid down by the buyer, the amount credited the buyer for any trade-in and a description ~~thereof of the trade-in~~, the cost to the retail buyer of any insurance, the ~~unpaid balance to be~~ amount financed which may include the cost of insurance, sales and use taxes, the amount of the ~~time price differential finance charge~~, the amount of any other charge specifying its purpose, the ~~time balance total of payments~~ due from the buyer, the terms of the payment of such ~~time balance total~~, the amount and date of each payment necessary finally to pay the ~~time balance total~~ and a summary of any insurance coverage to be effected. The commissioner may determine the form of ~~such the statement to be included therein. In the event that.~~ If a written order is taken from a prospective purchaser in connection with any ~~such~~ instalment sale, ~~then shall~~ the written statement ~~above provided for~~ shall be given to ~~such the~~ purchaser prior to or concurrent with the signing of ~~such the~~ order by ~~such the~~ purchaser. The ~~time price differential finance charge~~ in a retail instalment sale, however computed, excluding the cost of insurance shall not exceed the amount computed on the basis of the following annual percentage rates:

1. Class 1: Any new motor vehicle--~~\$7~~ 12.75% per ~~\$100 per annum~~ year; except for transactions of 72 months or more — 11.7% per year.

2. Class 2: Any used motor vehicle designated by the manufacturer by a year model of the same or 2 years prior to the year in which the sale is made--~~\$9~~ 16.25% per ~~\$100 per annum~~ year; except for transactions of 72 months or more — 14.7% per year.

3. Class 3: Any used motor vehicle not in Class 2 and designated by the manufacturer by a year model not more than 4 years prior to the year in which the sale is made--~~\$12~~ 21.25% per ~~\$100 per annum~~ year; except for transactions of 72 months or more —

19.15 % per year.

4. Class 4: Any used motor vehicle not in Class 2 or Class 3 and designated by the manufacturer by a year model more than 4 years prior to the year in which the sale is made--~~\$13~~ 23.25 % per \$100 per annum year; except for transactions of 72 months or more — 20.75 % per year.

5. Class 5: Any new truck or truck tractor having a gross vehicular weight of 15,000 pounds or more and ~~designated by the manufacturer by a year model of the same model year in which the sale is made--\$8.50~~ 15.25 % per \$100 per annum year.

6. ~~The time price differential~~ maximum allowable finance charge shall be computed on the ~~unpaid declining principal balance to be~~ of the amount financed as determined under the introductory paragraph hereof at the annual percentage rates provided for in the above classes which are payable by instalment payments, extending for a period of one year. ~~On instalment sales contracts providing for equal instalment payments extending for a period which is less than or greater than one year the time price differential shall be computed proportionately. On contracts payable in one instalment or in unequal instalments the seller may receive a rate that will not yield more than would be received by the use of the rates permitted in classes 1 to 5. The time price differential shall be computed on the basis of a full month for any fractional month period in excess of 15 days under subds. 1 to 5 according to the actuarial method as defined in s. 421.301 (1).~~

7. A minimum ~~time price differential~~ finance charge of \$15 may be charged on any instalment sales contract in which the ~~time price differential~~ finance charge, when computed at the rates indicated, results in a total charge of less than this amount.

(d) A violation of par. (a) or (b) shall bar recovery of any ~~time price differential, or any interest on the deferred balance~~ finance charge by the seller, or an assignee of the seller who, at the time of the assignment, had knowledge of ~~such the~~ the violation, in any suit upon a sales contract arising from the sale where ~~such the~~ the violation occurred.

(e) Prior to 30 days after acquisition of any retail instalment contract from a retail seller, every finance company shall mail or deliver to the retail buyer a written notice in writing that it has acquired the retail instalment contract from the retail seller ~~thereunder~~, and shall also mail or cause to be mailed ~~therewith~~ with the notice a statement of the particulars of the retail instalment contract price, ~~hereinbefore~~ required under par. (b) to be stated by the retail seller, in accordance with the finance company's records respecting such particulars, including the amount of the ~~time price differential~~ finance charge. Every finance company, if insurance is provided by it, shall also within the ~~time stated~~ 30 days send or cause to be sent to the retail buyer a policy ~~or policies~~ of insurance clearly setting forth the exact nature of the insurance coverage and the amount of the premiums, each stated separately, which shall be filed with the commissioner of insurance in accordance with ch. 625. The cancellation and rewriting of any such policy shall comply with the requirements of s. 631.69.

(g) Any retail buyer of a motor vehicle, resident of the state of Wisconsin at the time of ~~the purchase thereof~~, under a retail instalment contract made in this state, shall have a valid defense against the recovery of the principal, ~~time price differential, interest~~ finance charge and other fees included in ~~such the~~ the contract, in any action or proceeding at law to enforce said the contract by any person who has purchased or otherwise acquired ~~said the~~ the contract, if ~~such the~~ the person has failed or refused prior to ~~such the~~ the purchase or acquisition to be licensed as a sales finance company under ~~the provisions of~~ this section, and ~~such the~~ the person is actually engaged in business, in whole or in part as a sales finance company ~~as defined in this section.~~

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SECTION 4. Effective date. This act takes effect on the first day of the 2nd month commencing after its publication.
