

# State of Wisconsin



1997 Assembly Bill 433

Date of enactment: **December 15, 1997**

Date of publication\*: **January 2, 1998**

## 1997 WISCONSIN ACT 48

AN ACT *to repeal* 429.203 (2m) (form) (d) and 429.203 (3) (f); *to renumber* 429.203 (2m) (form) (e); *to renumber and amend* 218.01 (1) (ar), 344.51 (1), 344.51 (4), 429.104 (5), 429.104 (16) and 632.32 (2) (b); *to amend* 218.01 (1) (o) 5., 218.01 (2) (dr), 218.01 (3) (a) 18., 218.01 (6x) (e), 344.51 (2), 429.104 (1), 429.104 (3), 429.104 (3m) (intro.), 429.104 (3m) (a), 429.104 (3m) (b), 429.104 (4) (intro.), 429.104 (4) (a), 429.104 (4) (b), 429.104 (6), 429.104 (24), 429.203 (3) (a), 429.203 (3) (b), 429.203 (3) (c), 429.203 (3) (d), 429.203 (3) (e) 1., 429.203 (3) (e) 2., 429.203 (6) (c), 429.207 (2) (f) 1. and 429.207 (2) (f) 2.; and *to create* 344.51 (1g) (a) and (c), 429.203 (3) (fm) and 632.32 (2) (b) 2. of the statutes; **relating to:** disclosures for motor vehicle consumer leases, financial responsibility for domestic rented or leased vehicles and the definition of motor vehicle dealer.

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

**SECTION 1.** 218.01 (1) (ar) of the statutes is renumbered 218.01 (1) (jf) and amended to read:

218.01 (1) (jf) "Capitalized Gross capitalized cost" has the meaning given in s. 429.104 (5) (13m).

**SECTION 1m.** 218.01 (1) (o) 5. of the statutes is amended to read:

218.01 (1) (o) 5. Sales finance companies when engaged in purchasing or otherwise acquiring consumer leases from a motor vehicle dealer, or in renegotiating consumer leases previously purchased or otherwise acquired by them.

**SECTION 1r.** 218.01 (2) (dr) of the statutes is amended to read:

218.01 (2) (dr) The fee for licenses for sales finance companies for each calendar year, or part of a calendar year, is based on the gross volume of purchases of retail instalment contracts and consumer leases of motor vehicles sold or leased in this state for the 12 months immediately preceding October 31 of the year in which the

application for license is made, as follows: On a gross volume of \$100,000 or less, \$50; and on each \$100,000 or part thereof over \$100,000, an additional \$15. No extra charge shall be made for branch licenses for sales finance companies. Gross volume shall be based on the unpaid balance of the retail instalment contracts and the base lease periodic payments, as defined in s. 429.104 (4), of the consumer leases.

**SECTION 2.** 218.01 (3) (a) 18. of the statutes is amended to read:

218.01 (3) (a) 18. Having accepted an order or contract of purchase from a buyer or a consumer lease or prelease agreement from a lessee or prospective lessee if such arrangement results in the practice of bushing. For the purpose of this section, "bushing" means, with respect to an order or contract of purchase, the practice of increasing the selling price of a motor vehicle above that originally quoted the purchaser as evidenced by a purchase order or contract which has been signed by both the purchaser and dealer licensee and, with respect to a consumer lease or prelease agreement, the practice of increasing the gross capitalized cost above that originally

\* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

quoted the lessee or prospective lessee as evidenced by a consumer lease or prelease agreement which has been signed by both the lessee or prospective lessee and the dealer licensee.

**SECTION 3.** 218.01 (6x) (e) of the statutes is amended to read:

218.01 (6x) (e) No prelease agreement may contain a clause which, upon nonacceptance of the motor vehicle by the prospective lessee, would subject the prospective lessee to a penalty greater than 5% of the gross capitalized cost of the vehicle.

**SECTION 3j.** 344.51 (1) of the statutes is renumbered 344.51 (1m) and amended to read:

344.51 (1m) No person lessor or rental company may for compensation rent or lease any motor vehicle to be operated by or with the consent of the person renting or leasing the vehicle unless there is filed with the department on a form prescribed by the department a certificate for a good and sufficient bond or policy of insurance issued by an insurer authorized to do an automobile liability insurance or surety business in this state. The bond, policy or certificate shall provide that the insurer which issued it will be liable for damages caused by the negligent operation of the motor vehicle in the amounts set forth in s. 344.01 (2) (d). No person lessor or rental company complying with this subsection, and no person lessor or rental company entering into or acquiring an interest in any contract for the rental or leasing of a motor vehicle for which any other person lessor or rental company has complied with this subsection, is liable for damages caused by the negligent operation of the motor vehicle by another person.

**SECTION 3k.** 344.51 (1g) (a) and (c) of the statutes are created to read:

344.51 (1g) (a) “Lessor” means a person who, for compensation, leases a motor vehicle to a lessee to be operated by or with the consent of the lessee or who acquires a contract for the leasing of a motor vehicle from another person.

(c) “Rental company” means a person who, for compensation, rents a motor vehicle to a renter to be operated by or with the consent of the renter or who acquires a contract for the renting of a motor vehicle from another person.

**SECTION 3m.** 344.51 (2) of the statutes is amended to read:

344.51 (2) Any person lessor or rental company failing to comply with this section is directly liable for damages caused by the negligence of the person operating such rented or leased vehicle, but such liability may not exceed the limits set forth in s. 344.01 (2) (d) with respect to the acceptable limits of liability when furnishing proof of financial responsibility.

**SECTION 3n.** 344.51 (4) of the statutes is renumbered 344.51 (1g) (intro.) and amended to read:

344.51 (1g) (intro.) In this section, ~~“motor;~~

(b) “Motor vehicle” means a self-propelled vehicle.

**SECTION 4.** 429.104 (1) of the statutes is amended to read:

429.104 (1) “Adjusted capitalized cost” means the amount computed by subtracting from capitalized cost any capitalized cost reduction, for the purpose of determining the base lease periodic payment.

**SECTION 5.** 429.104 (3) of the statutes is amended to read:

429.104 (3) “Average periodic lease rent charge” means the lease rent charge for the scheduled term of the consumer lease divided by the number of payment periods under the consumer lease or, for a single-payment lease, the number of months in the term of the lease.

**SECTION 6.** 429.104 (3m) (intro.) of the statutes is amended to read:

429.104 (3m) (intro.) “Balance subject to a lease rent charge” means:

**SECTION 7.** 429.104 (3m) (a) of the statutes is amended to read:

429.104 (3m) (a) In the case of a lease other than a single-payment lease, the amount calculated by subtracting from the adjusted capitalized cost the sum of the first base lease periodic payment and all depreciation amounts accrued during any preceding payment periods.

**SECTION 8.** 429.104 (3m) (b) of the statutes is amended to read:

429.104 (3m) (b) In the case of a single-payment lease, the amount calculated by subtracting the total lease rent charge from the sum of the residual value and all lease rent charges accrued during any preceding computational periods.

**SECTION 9.** 429.104 (4) (intro.) of the statutes is amended to read:

429.104 (4) (intro.) “Base lease periodic payment” means an amount determined as follows:

**SECTION 10.** 429.104 (4) (a) of the statutes is amended to read:

429.104 (4) (a) With respect to a single-payment lease, the product of the number of months in the scheduled term of the lease multiplied by the sum of the average periodic lease rent charge and the average periodic depreciation.

**SECTION 11.** 429.104 (4) (b) of the statutes is amended to read:

429.104 (4) (b) With respect to a lease other than a single-payment lease, the sum of the average periodic lease rent charge and the average periodic depreciation.

**SECTION 12.** 429.104 (5) of the statutes is renumbered 429.104 (13m) and amended to read:

429.104 (13m) ~~“Capitalized~~ Gross capitalized cost” means the sum of all amounts capitalized in the consumer lease that, after subtracting the capitalized cost reduction, amortizes to the residual value by the depreciation portion of the periodic lease payments over the scheduled term of the lease or, for a single-payment lease, the single payment. These amounts may include taxes; fees for registration, license, acquisition, administration and assignment; other fees; charges for insurance, service contracts and extended warranties; and charges for a waiver of the contractual obligation to pay the gap amount, for accessories and their installation, for other services and benefits incidental to the consumer lease, and for delivering, servicing, repairing or improving the vehicle. With respect to a vehicle or other property traded in connection with a consumer lease, the term may include the outstanding unpaid balance of the amount financed under a consumer loan, as defined in s. 421.301 (12), or a retail instalment contract, as defined in s. 218.01 (1) (t), or the unpaid balance of any early termination costs under a lease or other obligation of the lessee. The term does not include any lease rent charge.

**SECTION 13.** 429.104 (6) of the statutes is amended to read:

429.104 (6) “Capitalized cost reduction” means the sum, at the time of inception of the consumer lease, of any payments made by cash, check, rebates or the like that constitute a downpayment made by the lessee and the net amount credited by the lessor for any trade-in. The term does not include any base lease periodic payments due at the inception of the consumer lease.

**SECTION 14.** 429.104 (16) of the statutes is renumbered 429.104 (23m) and amended to read:

429.104 (23m) “Lease Rent charge” means the sum of all charges payable by the lessee for the privilege of making the scheduled lease payments under a consumer lease. The term does not include gross capitalized cost.

**SECTION 15.** 429.104 (24) of the statutes is amended to read:

429.104 (24) “Residual value” means the estimated value of the leased vehicle at the expiration of the lease term that is used in the consumer lease to determine the depreciation portion of the base lease periodic payment.

**SECTION 16.** 429.203 (2m) (form) (d) of the statutes is repealed.

**SECTION 17.** 429.203 (2m) (form) (e) of the statutes is renumbered 429.203 (2m) (form) (d).

**SECTION 18.** 429.203 (3) (a) of the statutes is amended to read:

429.203 (3) (a) The gross capitalized cost, using the term “gross capitalized cost”, and an explanation of the term in substantially the following language: “The gross capitalized cost is the agreed-upon amount ~~determined at the inception of the consumer lease for all items and services included in the lease other than the charges you pay for the privilege of making the scheduled lease payments~~

value of the vehicle (\$... [insert the agreed-upon value of the vehicle]) and any items that you pay over the lease term (such as service contracts, insurance and any outstanding prior credit or lease balance).”

**SECTION 19.** 429.203 (3) (b) of the statutes is amended to read:

429.203 (3) (b) Any capitalized cost reduction, using the term “capitalized cost reduction”, and an explanation of the term in substantially the following language: “The capitalized cost reduction is ~~any cash, check, rebate or the like and, if applicable, net trade-in allowance~~ the amount of any net trade-in allowance, rebate, noncash credit or cash that you pay that reduces the gross capitalized cost.”

**SECTION 20.** 429.203 (3) (c) of the statutes is amended to read:

429.203 (3) (c) The adjusted capitalized cost, using the term “adjusted capitalized cost”, and an explanation of the term, as applicable, in substantially the following language: “The adjusted capitalized cost is the ~~agreed-upon amount that serves as the basis for determining the base lease payment. If you are not in default on the consumer lease, this amount (plus any applicable early termination charges) determines your maximum early termination obligation~~ is used in calculating your base periodic payment.”

**SECTION 21.** 429.203 (3) (d) of the statutes is amended to read:

429.203 (3) (d) The residual value of the leased vehicle, using the term “residual value”, and an explanation of the term in substantially the following language: “The residual value is the ~~estimated value of the leased vehicle at the end of the lease term that is used in determining the depreciation portion of the base lease payment. Your purchase option price, if any, may be a different amount~~ value of the vehicle at the end of the lease used in calculating your base periodic payment.”

**SECTION 22.** 429.203 (3) (e) 1. of the statutes is amended to read:

429.203 (3) (e) 1. With respect to a single-payment lease, a statement of the lease rent charge included in the single payment and a separate statement of the depreciation portion of the single payment.

**SECTION 23.** 429.203 (3) (e) 2. of the statutes is amended to read:

429.203 (3) (e) 2. With respect to a lease other than a single-payment lease, a statement of the lease rent charge included in the total of the periodic payments and a separate statement of the depreciation portion of the total of the periodic payments.

**SECTION 24.** 429.203 (3) (f) of the statutes is repealed.

**SECTION 24m.** 429.203 (3) (fm) of the statutes is created to read:

429.203 (3) (fm) A statement on early termination of the consumer lease in substantially the following language: “Early termination. You may have to pay a sub-

stantial charge if you end this consumer lease early. The charge may be up to several thousand dollars. The actual charge will depend on when the lease is terminated. The earlier you end the lease, the greater the charge is likely to be.”

**SECTION 25.** 429.203 (6) (c) of the statutes is amended to read:

429.203 (6) (c) If the lessee does not purchase, maintain in force and provide satisfactory proof of insurance against loss of or damage to the leased vehicle and against liability arising out of the ownership, maintenance or use of the leased vehicle, the lessor may purchase motor vehicle insurance to protect the lessor’s interest in the leased vehicle and against the lessor’s liability arising out of the ownership, maintenance or use of the leased vehicle. The lessor may include the cost of such insurance in the lease rent charge.

**SECTION 26.** 429.207 (2) (f) 1. of the statutes is amended to read:

429.207 (2) (f) 1. The sum of the balance subject to a lease rent charge and the lease rent charge earned in advance for the computational period in which the early termination occurs, calculated in accordance with the constant yield method or any other generally accepted accounting principle.

**SECTION 27.** 429.207 (2) (f) 2. of the statutes is amended to read:

429.207 (2) (f) 2. An amount determined in accordance with generally accepted actuarial principles under

which the lease rent charge is calculated on the adjusted capitalized cost for the time outstanding.

**SECTION 28g.** 632.32 (2) (b) of the statutes is renumbered 632.32 (2) (b) (intro.) and amended to read:

632.32 (2) (b) (intro.) “Motor vehicle handler” means a any of the following:

1. A motor vehicle sales agency, dealer, as defined in s. 218.01 (1) (n).

3. A repair shop, service station, storage garage or public parking place.

**SECTION 28j.** 632.32 (2) (b) 2. of the statutes is created to read:

632.32 (2) (b) 2. A lessor, as defined in s. 344.51 (1g) (a), or a rental company, as defined in s. 344.51 (1g) (c).

**SECTION 29. Initial applicability.**

(1) (a) The treatment of sections 218.01 (1) (ar), (2) (dr), (3) (a) 18. and (6x) (e), 429.104 (1), (3), (3m) (intro.), (a) and (b), (4) (intro.), (a) and (b), (5), (6), (16) and (24), 429.203 (2m) (form) (d) and (e), (3) (a), (b), (c), (d), (e) 1. and 2. and (f) and (6) (c) and 429.207 (2) (f) 1. and 2. of the statutes first applies to leases entered into on the effective date of this paragraph.

(b) The treatment of section 344.51 (1), (1g) (a) and (c), (2) and (4) of the statutes first applies to rentals and leases entered into on the effective date of this paragraph.

(2) The renumbering and amendment of section 632.32 (2) (b) of the statutes and the creation of section 632.32 (2) (b) 2. of the statutes first apply to policies issued or renewed on the effective date of this subsection.