

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2463 Session of
1988

INTRODUCED BY F. TAYLOR, GALLEN, LIVENGOD AND GEIST, MAY 16,
1988

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, MAY 16, 1988

AN ACT

1 Amending the act of June 28, 1947 (P.L.1110, No.476), entitled
2 "An act defining and regulating certain installment sales of
3 motor vehicles; prescribing the conditions under which such
4 sales may be made and regulating the financing thereof;
5 regulating and licensing persons engaged in the business of
6 making or financing such sales; prescribing the form,
7 contents and effect of instruments used in connection with
8 such sales and the financing thereof; prescribing certain
9 rights and obligations of buyers, sellers, persons financing
10 such sales and others; limiting incidental charges in
11 connection with such instruments and fixing maximum interest
12 rates for delinquencies, extensions and loans; regulating
13 insurance in connection with such sales; regulating
14 repossessions, redemptions, resales and deficiency judgments
15 and the rights of parties with respect thereto; authorizing
16 extensions, loans and forbearances related to such sales;
17 authorizing investigations and examinations of persons
18 engaged in the business of making or financing such sales;
19 prescribing penalties and repealing certain acts," adding a
20 definition of "heavy commercial motor vehicle"; and providing
21 for contracts, rates and refunding requirements.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. Section 3 of the act of June 28, 1947 (P.L.1110,
25 No.476), known as the Motor Vehicle Sales Finance Act, is
26 amended by adding a clause to read:

27 Section 3. Definitions.--The following words, terms and

1 phrases when used in this act shall have the meaning ascribed to
2 them in this section, except where the context clearly indicates
3 otherwise:--

4 * * *

5 22. "Heavy commercial motor vehicle" shall mean any new or
6 used motor vehicle which is (i) a truck or truck tractor having
7 a manufacturers gross vehicular weight of fifteen thousand
8 (15,000) pounds or more and (ii) a semi-trailer or trailer
9 designed for use in combination with a truck or truck tractor.

10 Section 2. Subsection F of section 13 of the act, amended
11 December 17, 1959 (P.L.1889, No.690), is amended to read:

12 Section 13. Requirements as to Contracts.--

13 * * *

14 F. Every installment sale contract shall provide for payment
15 of the time balance in substantially equal periods and in
16 substantially equal amounts: Provided, That when the buyer
17 expects his income to vary because of seasonal employment,
18 seasonal sales, use of accelerated depreciation for tax purposes
19 or other known cause, the contract may provide for payment of
20 the time balance in amounts which vary with such expected
21 varying income. An installment sale contract for the sale of a
22 heavy commercial motor vehicle shall be exempt from the
23 requirement that payments must be for substantially equal
24 periods and in substantially equal amounts. An installment sale
25 of a new motor vehicle to a bona fide salesman or of motor
26 vehicles to be used by him principally as a demonstrator shall
27 be exempt from the equal payment schedule requirement of this
28 section.

29 Section 3. Subsection B of section 14 of the act is amended
30 by adding a clause read:

1 Section 14. Contents of Contract.

2 * * *

3 B. Every installment sale contract shall set forth the
4 following separate items as such and in the following order:

5 * * *

6 10. Notwithstanding any provisions of this act or any other
7 law to the contrary, the finance charge percentage rate included
8 in an installment sale contract for the sale of a heavy
9 commercial motor vehicle may vary during the term thereof
10 pursuant to a formula or index set forth therein that is made
11 readily available to and verifiable by the buyer and is beyond
12 the control of the holder of the contract. For the purpose of
13 disclosing the amount of finance charge (Item 7) and time
14 balance (Item 8) and setting forth a payment schedule (Item 9)
15 of equal successive monthly installments, such amounts may be
16 calculated using the finance charge percentage rate applicable
17 to the transaction as of the date of execution of the contract,
18 notwithstanding the fact that such finance charge percentage
19 rate may increase or decrease over the term of the contract
20 according to a formula or index set forth in the contract.

21 * * *

22 Section 4. Section 21 of the act is amended to read:

23 Section 21. Default Charges.--

24 A. A default charge may be collected on any installment
25 payment or payments which are not paid on or before the due date
26 of such payments. Such default charge shall not exceed the rate
27 of two percent (2%) per month on the amount of the payment or
28 payments in arrears where the contract is for the sale of a
29 motor vehicle which is other than a heavy commercial motor
30 vehicle. Such default charge may be computed on the basis of a

1 full calendar month for any fractional month period in excess of
2 ten (10) days. On any contract for the sale of a heavy
3 commercial motor vehicle, the default charge shall not exceed
4 for any payment not made within ten (10) days of its scheduled
5 due date, five percent (5%) of the amount of the payment or
6 payments in arrears, provided that such default charge may be
7 collected only once on each payment in arrears. Such default
8 charges may be collected, when earned, during the term of the
9 contract, or may be accumulated and collected at final maturity,
10 or at the time of final payment under the contract. Such default
11 charge shall not be collected on any payment in default because
12 of any acceleration provision in the contract.

13 Section 5. Section 22 of the act, amended May 2, 1949
14 (P.L.812, No.211), is amended to read:

15 Section 22. Refund for Prepayment of Contract.--

16 A. The buyer, notwithstanding the provisions of any
17 installment sale contract, shall have the privilege of prepaying
18 at any time all or any part of the unpaid time balance under an
19 installment sale contract.

20 B. Whenever all of the time balance is liquidated prior to
21 maturity by prepayment, refinancing or termination by surrender
22 or repossession and re-sale of the motor vehicle, the holder of
23 the installment sale contract shall rebate to the buyer
24 immediately the unearned portion of the finance charge. Rebate
25 may be made in cash or credited to the amount due on the
26 obligation of the buyer.

27 C. [The] Except as provided in subsection D, the unearned
28 finance charge to be rebated to the buyer shall represent at
29 least as great a proportion of the total finance charge as the
30 sum of the periodical time balances after the date of prepayment

bears to the sum of all the periodical time balances under the schedule of payments in the original agreement: Provided, however, The holder shall not be required to rebate any portion of such unearned finance charge which results in a net minimum finance charge on the contract less than ten dollars (\$10.00); And provided further, the holder shall not be required to rebate any unearned finance charge when the amount due, computed as herein set forth, is less than one dollar (\$1.00).

D. For a contract for the sale of a heavy commercial motor vehicle, the unearned finance charge to be rebated to the buyer shall represent at least as great a proportion of the total finance charge as the sum of the periodical time balances after the date of prepayment bears to the sum of all the periodical time balances under the schedule of payments in the original agreement, and from which resulting amount may be deducted an acquisition cost not to exceed one hundred fifty dollars (\$150): Provided, That the holder shall not be required to rebate any portion of such unearned finance charge which results in a net minimum finance charge on the contract less than ten dollars (\$10.00): Provided further, That the holder shall not be required to rebate any unearned finance charge when the amount due, computed as herein set forth, is less than one dollar (\$1.00).

Section 6. This act shall take effect in 60 days.