

No. 1990-25

AN ACT

HB 382

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

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

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

Section 3. Definitions.—The following words, terms and phrases when used in this act shall have the meaning ascribed to them in this section, except where the context clearly indicates otherwise:—

* * *

22. "*Heavy commercial motor vehicle*" shall mean any new or used motor vehicle which is (i) a truck or truck tractor having a manufacturer's gross vehicular weight of fifteen thousand (15,000) pounds or more, or (ii) a semi-trailer or trailer designed for use in combination with a truck or truck tractor.

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

Section 13. Requirements as to Contracts.—

* * *

F. Every installment sale contract shall provide for payment of the time balance in substantially equal periods and in substantially equal amounts: Provided, That when the buyer expects his income to vary because of seasonal employment, seasonal sales, use of accelerated depreciation for tax purposes or other known cause, the contract may provide for payment of the time balance in amounts which vary with such expected varying income. *An installment sale contract for the sale of a heavy commercial motor vehicle shall be exempt from the requirement that payments must be for substantially equal periods and in substantially equal amounts.* An installment sale

of a new motor vehicle to a bona fide salesman or of motor vehicles to be used by him principally as a demonstrator shall be exempt from the equal payment schedule requirement of this section.

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

Section 14. Contents of Contract.

* * *

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

* * *

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

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

Section 21. Default Charges.—

A. A default charge may be collected on any installment payment or payments which are not paid on or before the due date of such payments. Such default charge shall not exceed the rate of two percent (2%) per month on the amount of the payment or payments in arrears *where the contract is for the sale of a motor vehicle which is other than a heavy commercial motor vehicle*. Such default charge may be computed on the basis of a full calendar month for any fractional month period in excess of ten (10) days. *On any contract for the sale of a heavy commercial motor vehicle, the default charge shall not exceed for any payment not made within ten (10) days of its scheduled due date, four percent (4%) of the amount of the payment or payments in arrears: Provided, That such default charge may be collected only once on each payment in arrears.* Such default charges may be collected, when earned, during the term of the contract, or may be accumulated and collected at final maturity, or at the time of final payment under the contract. Such default charge shall not be collected on any payment in default because of any acceleration provision in the contract.

Section 5. This act shall take effect in 60 days.

APPROVED—The 4th day of April, A. D. 1990.

ROBERT P. CASEY