Public Law 86-431

AN ACT

To provide for the regulation of finance charges for retail installment sales of motor vehicles in the District of Columbia, and for other purposes.

April 22, 1960
[H. R. 10683]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for purposes of this Act, unless the context requires a different meaning—

D. C. finance charges for vehicles. Regulation.

(1) "Commissioners" means the Commissioners of the District of Columbia, or their designated agent.

(2) "District" means the District of Columbia.

(3) "Finance charge" means the total amount to be added to the principal balance to determine the balance of the buyer's indebtedness to be paid under a retail installment contract.

(4) "Governmental charges" means the excise tax, personal property tax, inspection fee, registration fee, recording fee, and such other fees charged by any government, or otherwise authorized by law, incident to the transfer of title to a motor vehicle as the Commissioners may by regulation include within such term.

(5) "Instrument of security" means any promissory note, retail installment contract, or other written promise to pay the unpaid balance of the total amount to be paid by a retail buyer of a motor vehicle.

(6) "Motor vehicle" means any automobile, mobile home, motorcycle, truck, truck tractor, trailer, semitrailer, or bus, but shall not include any boat trailer or any vehicle propelled or drawn exclusively by muscular power or designed to run only on rails or tracks.

(7) "Person" means an individual, firm, partnership, joint stock company, corporation, association, incorporated society, statutory or common law trust, estate, executor, administrator, receiver, trustee, conservator, liquidator, committee, assignee, officer, employee, principal, or agent.

(8) "Principal balance" means the cash sale price of a motor vehicle, including accessories and equipment, plus the amounts, if any, included in the retail installment contract, if separate identified charges are stated therein, for insurance and governmental charges, less the amount of the purchaser's downpayment, if any, in money or goods or both.

(9) "Retail installment contract" means a contract entered into in the District or entered into by a seller licensed or required to be licensed by the District evidencing a retail installment transaction pursuant to which the title to or a lien on or security in the motor vehicle, which is the subject matter of such transaction, is retained or taken to secure the retail buyer's obligations. The term includes a chattel mortgage, conditional sale contract, and a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay as compensation for use a sum substantially equivalent to or in excess of the value of the motor vehicle sold and it is agreed that the bailee or lessee is bound to become, or, for no further or a merely nominal consideration, has the option of becoming, the owner of the motor vehicle upon full compliance with the provisions of the bailment or lease.

(10) "Retail installment transaction" means any transaction in which a retail buyer purchases a motor vehicle for a price in excess of the cash sale price and agrees to pay part or all of such price in one or more deferred installments.

Fixing maximum finance charges.

SEC. 2. (a) Notwithstanding the provisions of any instrument of security, refinancing contract, or other instrument to the contrary, made or entered into on or after the effective date of this Act, no

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person shall charge, contract for, receive, or collect a finance charge if such charge exceeds the larger of $25 or an amount determined under the following schedule:

Class 1. Any new domestic motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made and any new foreign motor vehicle—$8 per $100 per year.

Class 2. Any new domestic motor vehicle not in class 1 and any used domestic motor vehicle designated by the manufacturer by a year model of the same or not more than two years prior to the year in which the sale is made and any used foreign motor vehicle not more than two years old—$11 per $100 per year.

Class 3. Any used motor vehicle not in class 2, and, if a domestic motor vehicle, designated by the manufacturer by a year model not more than four years prior to the year in which the sale is made, and, if a foreign motor vehicle, not more than four years old—$14 per $100 per year.

Class 4. Any used motor vehicle not in class 2 or class 3—$16 per $100 per year.

Computation.

(b) The finance charge authorized by the preceding subsection shall be computed on the principal balance payable for a motor vehicle from the date of the instrument or contract until the maturity of the final installment, notwithstanding that the balance thereof is required to be paid in installments.

Proportionate increase or decrease.

(c) For a period less or greater than twelve months or for amounts less or greater than $100, the amount of the maximum charge set forth in the foregoing schedule shall be decreased or increased proportionately.

Investigation.

(d) The Commissioners shall from time to time investigate the economic conditions and other factors relating to and affecting finance charges, and shall ascertain all pertinent facts necessary to determine what maximum charges should be permitted in such transactions. Upon the basis of such ascertained facts, the Commissioners, notwithstanding the provisions of the preceding subsections, shall from time to time by regulation or order determine and fix the maximum finance charges sufficiently high to result in a fair return on investment to persons engaged in the business of financing retail installment transactions, but not so high as to constitute an unreasonable economic burden on the purchasers of motor vehicles under retail installment contracts. The Commissioners may from time to time, upon the basis of changed conditions or facts, redetermine and refix any such maximum finance charge, but, before determining or redetermining any such maximum charge, the Commissioners shall give reasonable notice of their intention to consider doing so, and provide a reasonable opportunity to persons desiring to be heard with respect to any such proposed determination or redetermination. Notice of the action proposed by the Commissioners shall be published once a week for two consecutive weeks in one or more of the daily newspapers published in the District. Any such changed maximum finance charge shall not affect any preexisting instrument of security lawfully entered into between the seller and the purchaser of any motor vehicle.

Regulations. Enforcement.

(e)(1) The Commissioners are hereby authorized to make and enforce such regulations as they in their discretion deem appropriate to carry out the purposes of this section and to prevent unconscionable practices in connection with retail installment transactions, including, without limitation, provisions:

(i) governing the form and substance of instruments of security;

(ii) requiring that installment payments under instruments of security be made in substantially equal amounts and at regular

intervals except (1) that the interval for the first installment payment may be longer than the other intervals; (2) that the final installment payment may be less in amount than the preceding installment payments; (3) that where a buyer's livelihood is dependent upon seasonal or intermittent income, one or more installment payments in the schedule of payments included in any such instrument of security may be reduced or omitted; and (4) that any contract covering a new motor vehicle to be used primarily as a demonstrator sold to a bona fide motor-vehicle salesman employed by the seller shall be exempt from the requirement that installment payments be in substantially equal amounts;

(iii) requiring that amounts due under instruments of security may be prepaid in full and that the unearned charges, whether for finance, insurance, or for other purposes, attributable to or resulting from such prepayments shall be refunded or credited;

(iv) establishing maximum delinquency, collection, repossession and other charges;

(v) specifying the types and maximum amounts of insurance which may be required, at the expense of the retail buyer, to protect from loss the seller in a retail installment transaction or his assignee or any other person entitled to payments from a retail buyer under an instrument of security;

(vi) respecting the manner and methods of the sale or disposition of repossessed motor vehicles under such conditions, including, without limitation, rights of redemption, as the Commissioners deem advisable;

(vii) requiring the books and records of persons engaged in the business of financing retail installment transactions to be subject to production for examination by the Commissioners.

Additional regulations.

(2) The Commissioners are further authorized, in their discretion, to make and enforce such additional regulations as they deem necessary to insure that purchasers of motor vehicles under instruments of security are not being required, directly or indirectly, to pay finance, insurance, or other charges in excess of those authorized by this Act or by the Commissioners pursuant to the authority vested in them.

Classification provision.

(3) In exercising their powers and authority under this subsection (e), the Commissioners are authorized, in their discretion, to make reasonable classifications (i) according to the parties to retail installment transactions, or (ii) according to the parties to the instruments of security, or (iii) according to the parties involved in repossessions, or (iv) according to other bases, or (v) according to two or more of the foregoing clauses (i) through (iv), and to exercise such powers and authority under this subsection with respect to any one or more of any classifications so made or with respect to all of said classifications.

Waiver restriction.

(f) No provision shall be inserted in any retail installment contract whereby the buyer waives or purports to waive any provision of this Act, and any such waiver or purported waiver shall be void and of no effect. The Commissioners are authorized in their discretion, by regulation (1) to prohibit the inclusion in any retail installment contract of any provision waiving or purporting to waive any provision of any regulation promulgated by the Commissioners relating to retail installment transactions, and (2) to provide that any such waiver or purported waiver, shall be void and of no effect.

Authorization for security.

SEC. 3. (a) In connection with the licensing of persons under the authority of section 7 of the Act entitled "An Act making appropriations to provide for the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes", approved July 1, 1902, as amended (title 47, ch. 23. D.C. Code 1951 ed.), the

47 Stat. 550. D. C. Code 47-2301 and note.

Commissioners are authorized to require either bonds or such other security as they may by regulation deem necessary, of persons licensed to engage in the business of buying or selling motor vehicles and of persons licensed to engage in the business of purchasing contracts for the retail installment sales of motor vehicles, and the Commissioners may, from time to time, and in their discretion, establish classes and subclasses of such persons and, subject to subsection (b) of this section, specify the amount and conditions of the bond to be deposited by each of the members of any such class or subclass. In connection with the licensing of said persons, and the bonding of the members of any class or subclass of the said persons, the Commissioners, in their discretion, may by regulation require applicants for licenses:

Licenses.

(1) to furnish and keep in force a bond running to the District, or other security, to protect members of the public against financial loss by reason of the failure of the licensee or of any officer, agent, employee, or other person acting on behalf of said licensee, to observe any law or regulation in force in the District of Columbia applicable to the licensee's conduct of the licensed business;

(2) to procure and keep in force public liability insurance or property damage insurance, or both;

(3) to appoint the Commissioners as their true and lawful attorney upon whom all judicial and other process or legal notice directed to such person may be served.

Corporate surety bonds. Limitation.

(b) The bonds authorized by this section shall be corporate surety bonds in amounts to be fixed by the Commissioners, but no bond shall exceed $25,000, and such bond shall be conditioned upon the observance by the licensee and any officer, agent, employee, or other person acting on behalf of said licensee, of all laws and regulations in force in the District applicable to the licensee's conduct of the licensed business, for the benefit of any person who may suffer damages resulting from the violation of any such law or regulation by or on the part of such licensee or any officer, agent, employee, or other person acting on behalf of the licensee.

Right to bring suit.

(c) Any person aggrieved by the violation of any law or regulation applicable to the licensee's conduct of the licensed activity shall have, in addition to his right of action against such licensee, a right to bring suit against the surety on a bond authorized by this section, either alone or jointly with the principal thereon, and to recover in an amount not exceeding the penalty of the bond any damages sustained by reason of any act, transaction, or conduct of the licensee, or of any officer, agent, employee, or other person acting on behalf of said licensee, which is in violation of law or regulation in force in the District relating to the licensed activity. The provisions of the second, third, and the fifth subparagraphs of paragraph (b) of the first section of the Act entitled "An Act to grant additional powers to the Commissioners, and for other purposes", approved December 20, 1944 (58 Stat. 820; sec. 1-244(b), D.C. Code, 1951 edition), shall be applicable to each bond authorized by this section as if it were the bond authorized by the first subparagraph of such paragraph (b) of the first section of said Act approved December 20, 1944: *Provided*, That nothing in this subsection shall be construed to impose upon the surety on any such bond a greater liability than the total amount thereof or the amount remaining unextinguished after any prior recovery or recoveries.

D. C. Code 1-244 (b).

Suspension or revocation of licenses.

SEC. 4. Subparagraph (a) of paragraph 46 of section 7 of the Act entitled "An Act making appropriations to provide for the government of the District of Columbia for the fiscal year ending June 30, 1902, and for other purposes", approved July 1, 1902, as amended

(sec. 47-2345, D.C. Code, 1951 edition), is amended by striking the words "to revoke" and inserting in lieu thereof the words "to suspend or revoke". 47 Stat. 563.

SEC. 5. With the exception of the function of making regulations to carry out the purposes of this Act, the Commissioners are authorized to delegate, with power to redelegate, any of the functions vested in them by this Act. Exception.

SEC. 6. The Commissioners are authorized to promulgate regulations to carry out the purposes of this Act: *Provided*, That no such regulation shall become effective until after a public hearing has been held thereon.

SEC. 7. No person shall make any statement required or authorized by this Act to be filed with the Commissioners, knowing that the information set forth in such statement is false.

SEC. 8. Any person who shall violate any provision of this Act or of any regulation promulgated by the Commissioners under the authority of this Act, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $500 or by imprisonment for not more than six months, or both. Penalty.

SEC. 9. Prosecutions for violations of this Act, or of the regulations made pursuant thereto, shall be conducted in the name of the District by the Corporation Counsel or any of his assistants. As used in this Act the term "Corporation Counsel" means the attorney for the District, by whatever title such attorney may be known, designated by the Commissioners to perform the functions prescribed for the Corporation Counsel in this Act. "Corporation Counsel".

SEC. 10. The authority and power vested in the Commissioners by any provision of this Act shall be deemed to be additional and supplementary to authority and power now vested in them, and not as a limitation.

SEC. 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or the application of this Act which can be effected without the invalid provision or application, and to this end the provisions of this Act are severable.

SEC. 12. This Act shall take effect on the thirtieth day after the date of enactment of this Act. Effective date.

Approved April 22, 1960.

Public Law 86-432

April 22, 1960
[H. R. 8649]

AN ACT

To continue for a temporary period the existing suspensions of the tax on the first domestic processing of coconut oil, palm oil, palm-kernel oil, and fatty acids, salts, combinations, or mixtures thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Section 3 of Public Law 85-235 (71 Stat. 516), approved August 30, 1957 (relating to the temporary suspension of the tax on the first domestic processing of coconut oil); and

(2) Public Law 86-37 (73 Stat. 64), approved May 29, 1959 (relating to the temporary suspension of the tax on the first domestic processing of palm oil, palm-kernel oil, etc.),

are each amended by striking out "June 30, 1960" and inserting in lieu thereof "June 30, 1963". Coconut and palm oil, etc. Tax suspension. 26 USC 4511 note.

Approved April 22, 1960.