Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1346

Introduced by

Representatives Vigesaa, M. Nelson, Trottier

Senators Burckhard, Klein, O'Connell

A BILL for an Act to amend and reenact subsection 2 of section 51-13-02 and section 51-13-07 of the North Dakota Century Code, relating to retail installment sales contracts; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 51-13-02 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~a.~~ If the retail installment sale for which the retail installment contract is made is not subject to the Truth in Lending Act [15 U.S.C. 1601-1667e~~f~~], or if the retail installment sale is subject to that Act and the seller does not comply with ~~the~~ all the requirements of that Act, this subsection applies.

   a. The printed portion of the contract must be in at least eight-point type. The contract must contain printed or written in a size equal to at least ten-point bold type:

      (1) Either at the top of the contract or directly above the space reserved for the signature of the buyer, the words "RETAIL INSTALLMENT CONTRACT".

      (2) A specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included, if that is the case.

      (3) The following notice: "NOTICE TO THE BUYER: 1. Do not sign this contract before you read it or if it contains any blank space. 2. You are entitled to a completely filled-in copy of this contract when you sign it. 3. Under the law, you have the following rights, among others: (a) to pay off in advance the full amount due and to obtain a partial refund of the finance charge; (b) to redeem the property if repossessed for a default within the time provided by law; (c) to require, under certain conditions, a resale of the property if

repossessed. 4. If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."

b. The seller shall deliver to the buyer a legible copy of the contract or any other document the seller has required or requested the buyer to sign. Until the seller does so, a buyer who has not received delivery of the personal property has an unconditional right to cancel the contract and to receive immediate refund of all payments made and redelivery of all goods traded in to the seller on account of or in contemplation of the contract. Any acknowledgment by the buyer of delivery of a copy of the contract must be printed or written in a size equal to at least ten-point bold type and, if contained in the contract, must also appear directly above the space reserved for the buyer's signature. The buyer's written acknowledgment of delivery of a copy of a contract is conclusive proof of such delivery and of compliance with this subdivision in any action or proceeding by or against an assignee of the contract without knowledge to the contrary when the assignee purchases the contract.

c. The contract must contain:

(1) The names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the personal property including its make, year model, model and identification numbers or marks, if any, and whether it is new or used.

(2) The cash price of the personal property which is the subject matter of the retail installment sale.

(3) The amount of the buyer's downpayment, itemizing the amounts paid in money and in goods and containing a brief description of the goods, if any, traded in.

(4) The difference between paragraphs 2 and 3, which is the unpaid balance of cash price.

(5) The amount, if any, included for insurance, specifying the coverages.

(6) The amount, if any, of official fees.

(7) The amount financed, which is the sum of paragraphs 4, 5, and 6.

(8) The amount of the finance charge, if any.

(9) The total of payments, which is the sum of paragraphs 7 and 8, payable by the buyer to the seller, the number of installments required, the amount of each installment expressed in dollars, and the due date or period thereof.

(10) The deferred payment price, which is the sum of the amounts determined in paragraphs 2, 5, 6, and 8.

(11) If any installment substantially exceeds in amount any prior installment other than the downpayment, the following legend printed in at least ten-point bold type or typewritten: "THIS CONTRACT IS NOT PAYABLE IN INSTALLMENTS OF EQUAL AMOUNTS", followed, if there be but one larger installment, by: "AN INSTALLMENT OF $_____ WILL BE DUE ON _____", or, if there be more than one larger installment, by: "LARGER INSTALLMENTS WILL BE DUE AS FOLLOWS: _____", in such latter case inserting the amount of every larger installment and its due date.

(12) Any balloon payments. If any payment under a contract is more than twice the amount of an otherwise regularly scheduled equal payment, the seller shall identify the amount of such payment by the term "balloon payment".

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the calculations involved in determining the amount to be paid by the buyer.

d. If the cost of any insurance is included in the contract and a separate charge is made to the buyer for the insurance:

(1) The contract must state whether the insurance is to be procured by the buyer or the seller.

(2) If the insurance is to be procured by the seller or holder, the seller or holder shall within thirty days after execution of the retail installment contract send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this state and sold by a licensed insurance agent.

If any such policy or certificate is canceled, the unearned insurance premium refund received by the holder of the contract must be credited to the final maturing installments of the retail installment contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and holder of the contract or either of them.

e. A contract may provide for the payment by the buyer of a delinquency and collection charge on each installment in default for a period of more than ten days in an amount equal to ten percent of the delinquent installment payment or ten dollars, whichever is less; provided, that only one such delinquency and collection charge may be collected on each installment in addition to interest accruing thereon.

f. No retail installment contract may be signed by any party thereto when it contains blank spaces to be filled in after it has been signed except that, if delivery of the personal property is not made at the time of the execution of the contract, the identifying numbers or marks of the property or similar information and the due date of the first installment may be inserted in the contract after its execution.

SECTION 2. AMENDMENT. Section 51-13-07 of the North Dakota Century Code is amended and reenacted as follows:

51-13-07. <u>Enforcement - Powers - Remedies -</u> Penalties.

Any person who willfully violates this chapter is guilty of a class A misdemeanor. A willful violation of section 51-13-02 or 51-13-03 by any person bars that person's recovery of any finance charge or delinquency or collection charge on the retail installment contract involved. <u>A state's attorney or the attorney general may enforce this chapter. The attorney general in enforcing this chapter has all the powers provided in this chapter and chapter 51-15 and may seek all remedies in this chapter and chapter 51-15. A violation of this chapter constitutes a violation of chapter 51-15. The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in addition to all other causes of action, remedies, and penalties in chapter 51-15, or otherwise provided by law.</u>