

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0214

HOUSE BILL NO. 1046

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding installment
2 transactions involving a motor vehicle.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 54-3A-1 be amended to read as follows:

5 54-3A-1. Terms used in this chapter, ~~unless the context otherwise requires,~~ mean:

6 (1) "Cash sale price," the price for which the person making a sale pursuant to an
7 installment sales contract would have sold the goods or services if the sale had been
8 for cash. The cash sale price may include any taxes or license, title, and registration
9 fees and the cash price of any accessories or services related to the sale, such as
10 charges for delivery, installation, alterations, modifications, and improvements;

11 (2) "Consumer," a natural person who seeks or acquires, or is offered property, services,
12 or credit for personal, family, household, or agricultural purposes;

13 (3) "Consumer transaction," a transaction involving the purchase or sale of goods or
14 services for personal, family, household, or agricultural use from one, who in the
15 ordinary course of business sells goods or services. The parties to a transaction, which
16 involves the purchase or sale of goods or services but which is not a consumer

1 transaction, may agree to be governed by all of the provisions of this chapter with
2 respect to the transaction, and in such event the transaction ~~shall be~~ is deemed to be
3 a consumer transaction for all purposes of this chapter;

4 (4) "Finance charge," however denominated, means the amount which is paid or payable
5 for the privilege of paying for goods or services in one or more installments. It does
6 not include a delinquency charge as permitted in §§ 54-3A-11 and 54-3A-12,
7 additional charges as permitted in § 54-3A-5, or any charge imposed by a creditor
8 upon another person for purchasing or accepting an obligation of a consumer unless
9 the consumer is required to pay any part of that charge in cash, as an addition to the
10 obligation, or as a deduction from the proceeds of the obligation;

11 (5) "Goods," tangible personal chattels, whether or not in existence at the time the
12 transaction is entered into, and including things which, at the time of sale or
13 subsequently, are to be so affixed to real property as to become a part thereof,
14 whether or not severable therefrom, but excluding money, chattel paper, documents
15 of title, and other instruments. ~~"Goods" does not include motor vehicles which are
16 sold in secured sales subject to chapter 54-7;~~

17 (6) "Installment sales contract," an arrangement other than a revolving charge account,
18 entered into in this state evidencing any consumer transaction in which a consumer
19 purchases goods or services from a creditor, under which arrangement a finance
20 charge may be imposed and the consumer agrees to pay for the goods or services in
21 one or more installments;

22 (7) "Official fees," the fees prescribed by law for filing, recording, or otherwise perfecting
23 a security interest or the premium payable for any insurance in lieu of perfecting any
24 security interest if the premium does not exceed the fees otherwise prescribed by law;

25 (8) "Services" includes:

- 1 (a) Work, labor, and other personal services;
- 2 (b) Privileges and contract rights with respect to accommodations or facilities,
- 3 including ~~but not limited to~~ hotels and restaurants, transportation, education,
- 4 entertainment, recreation, physical culture, hospital accommodations, funerals,
- 5 and cemetery associations;
- 6 (c) Diagnostic work, maintenance, repair, or improvement, other than as part of
- 7 the manufacture or original construction, of properties; and
- 8 (d) Insurance;
- 9 (9) "Transaction," all of the agreements made between two or more persons to carry out
- 10 an exchange of value, including the entire process of soliciting, negotiating, making,
- 11 performing, and enforcing such agreements, whether or not any agreement is
- 12 enforceable by action.