

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

445D0637

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB171** - 1/28/00

Introduced by: Senators Brown (Arnold), Lawler, and Shoener and Representatives Earley, Broderick, Konold, and Peterson

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding consumer installment
2 sales contracts.

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 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 actually paid and the cash price of any accessories or services related to the sale,
10 such as charges for delivery, installation, alterations, modifications, ~~and~~
11 improvements, and any other similar charges agreed upon between the parties. The
12 cash price of a motor vehicle may also include a documentary fee or document
13 administration fee for services actually rendered to, for, or on behalf of, the retail
14 buyer, in preparing, handling, and processing documents relating to the motor vehicle
15 and the closing of the retail sale;

16 (2) "Consumer," a natural person who seeks or acquires, or is offered property, services,

- 1 or credit for personal, family, household, or agricultural purposes;
- 2 (3) "Consumer transaction," a transaction involving the purchase or sale of goods or
3 services for personal, family, household, or agricultural use from one, who in the
4 ordinary course of business sells goods or services. The parties to a transaction, which
5 involves the purchase or sale of goods or services but which is not a consumer
6 transaction, may agree to be governed by all of the provisions of this chapter with
7 respect to the transaction, and in such event the transaction is deemed to be a
8 consumer transaction for all purposes of this chapter;
- 9 (4) "Finance charge," however denominated, means the amount which is paid or payable
10 for the privilege of paying for goods or services in one or more installments. It does
11 not include a delinquency charge as permitted in §§ 54-3A-11 and 54-3A-12,
12 additional charges as permitted in § 54-3A-5, or any charge imposed by a creditor
13 upon another person for purchasing or accepting an obligation of a consumer unless
14 the consumer is required to pay any part of that charge in cash, as an addition to the
15 obligation, or as a deduction from the proceeds of the obligation;
- 16 (5) "Goods," tangible personal chattels, whether or not in existence at the time the
17 transaction is entered into, and including things which, at the time of sale or
18 subsequently, are to be so affixed to real property as to become a part thereof,
19 whether or not severable therefrom, but excluding money, chattel paper, documents
20 of title, and other instruments;
- 21 (6) "Installment sales contract," an arrangement other than a revolving charge account,
22 entered into in this state evidencing any consumer transaction in which a consumer
23 purchases goods or services from a creditor, under which arrangement a finance
24 charge may be imposed and the consumer agrees to pay for the goods or services in
25 one or more installments;

- 1 (7) "Official fees," the fees prescribed by law for filing, recording, or otherwise perfecting
2 a security interest or the premium payable for any insurance in lieu of perfecting any
3 security interest if the premium does not exceed the fees otherwise prescribed by law;
- 4 (8) "Services" includes:
- 5 (a) Work, labor, and other personal services;
- 6 (b) Privileges and contract rights with respect to accommodations or facilities,
7 including hotels and restaurants, transportation, education, entertainment,
8 recreation, physical culture, hospital accommodations, funerals, and cemetery
9 associations;
- 10 (c) Diagnostic work, maintenance, repair, or improvement, other than as part of
11 the manufacture or original construction, of properties; and
- 12 (d) Insurance;
- 13 (9) "Transaction," all of the agreements made between two or more persons to carry out
14 an exchange of value, including the entire process of soliciting, negotiating, making,
15 performing, and enforcing such agreements, whether or not any agreement is
16 enforceable by action.

1 **BILL HISTORY**

2 1/21/00 First read in Senate and referred to Commerce. S.J. 141

3 1/27/00 Scheduled for Committee hearing on this date.

4 1/27/00 Commerce Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 217

5 1/27/00 Commerce Place on Consent Calendar.