

MAINE STATE LEGISLATURE

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N I N E T Y - S E V E N T H L E G I S L A T U R E

Legislative Document

No. 1530

S. P. 572

In Senate, May 3, 1955

Reported by Majority from Committee on Business Legislation and printed under Joint Rules No. 10.

CHESTER T. WINSLOW, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-FIVE

AN ACT Regulating Automobile Finance Business.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 59, §§ 249 - 256, additional. Chapter 59 of the revised statutes is hereby amended by adding thereto 8 new sections, to be numbered 249 to 256, inclusive, to read as follows:

‘Automobile Finance Business.

Sec. 249. Financing of time sales on motor vehicles; license; fee; refusal to issue or renew; appeal; penalty for doing business without license. Any person, firm or corporation, desiring to conduct the business of financing time sales on motor vehicles, shall annually make application to the Bank Commissioner for a license to conduct said business. Said application shall be made on forms prepared and furnished by the Commissioner and shall state such information as may be asked for thereon. The Commissioner shall examine the facts stated in said application for license and may issue or renew a license to said applicant authorizing said applicant to engage in said business. Said license shall expire on the 30th day of June of each calendar year. All applications for such licenses shall be accompanied by a fee of \$100, which said fee shall be returned in the event that application is denied.

If the Commissioner, after investigation, shall find that the applicant is not of good repute or has been guilty of fraudulent or unfair business practices or misrepresentations to the public, he may refuse to issue or renew the license so applied for and he shall in writing notify the applicant of his failure to approve of said application and to issue or renew a license based thereon, and shall also state in writing his reasons for said refusal. If said refusal shall be to renew a license previously issued, said refusal shall not become effective until 15 days

from the date thereof, and the license previously issued shall continue in full and effect during said period of 15 days, notwithstanding that said period may extend beyond the 30th day of June. Any applicant, receiving from the Commissioner notice of his refusal to so issue or renew a license to said applicant, may within 60 days after the receipt of said notice file an appeal to the Superior Court in and for the county in which the applicant has a place of business, and if said appeal shall be from the refusal of the Commissioner to renew a license previously issued, such license shall continue in full force and effect pending final decision on said appeal, notwithstanding that said period may extend beyond the 30th day of June. After such notice as it shall order and upon hearing, said Court shall determine whether or not the reasons assigned by the Commissioner for said refusal are valid and said Court shall thereupon sustain or reverse the ruling of the Commissioner. If said Court shall find that the reasons assigned by the Commissioner for his refusal to issue or renew said license are not sufficient, and shall reverse the decision of said Commissioner, the Commissioner shall immediately issue the license or renewal of license so applied for. The Commissioner may, after notice and hearing, revoke or suspend any license issued by him, which said order of revocation or suspension shall become effective at the end of 15 days from the date of issuance, and said licensee shall have the same right to an appeal from such suspension or revocation as is above provided. Pending final decision on any appeal from an order revoking or suspending any license previously issued, the license shall continue in full force and effect.

Any person conducting the business of financing time sales on motor vehicles without being licensed by the Commissioner shall be punished by a fine of not more than \$500, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

Sec. 250. Insurance. The retail buyer may be required to provide insurance at the retail buyer's expense for the protection of the retail seller or subsequent holder. The retail buyer under a retail installment contract shall have the privilege of supplying such insurance through an agent or broker of his own selection and of selecting an insurance company licensed in this State acceptable to the retail seller; provided, however, the inclusion of the amount of the insurance premium in the retail installment contract, when the retail buyer selects the company, agent or broker, shall be optional with the retail seller. The retail buyer shall not be required to provide life or health and accident insurance at the retail buyer's expense for the protection of the retail seller or the subsequent holder as a condition of, or as a prerequisite to, the granting of an installment sales agreement and shall be limited to the retail seller's or subsequent holder's interest.

Sec. 251. Seller to itemize charges. It shall be unlawful for any person, firm or corporation to sell a motor vehicle, as defined by section 1 of chapter 22, by an installment sales contract without having before the consummation of the sale furnished the buyer an itemization in writing signed by the seller separately disclosing to the purchaser the finance charge, insurance costs and other charges which are paid or to be paid by the purchaser.

The seller shall be deemed to have fully complied with the requirement of this section when he has furnished the purchaser, before consummation of the sale, an itemization in writing which clearly discloses:

- I. The delivered price of the motor vehicle, including accessories or extras, if any; and
- II. The amounts to be credited as down payment and trade-in, if any; and
- III. The time balance owed by the buyer to seller, the amount of each installment payment to be made by the buyer and the number of such installment payments and the due dates thereof; and
- IV. The cost of insurance and emergency benefits included in the transaction, the coverage and benefits provided and the party or parties to whom the insurance is payable; and
- V. Interest charge; and
- VI. Recording fee; and
- VII. Other charges making up the total consideration paid or to be paid by the purchaser included in the time balance, the amounts and nature of each to be separately stated.

Provided, however, that subsections I, II, III, IV and V need not be stated in the sequence or order above set forth and that additional items may be included which serve to explain the calculations involved in determining the stated time balance to be paid by the purchaser; and provided further, that when all the said required information is clearly set forth in an installment sales contract, chattel mortgage or other instrument evidencing the purchase transaction, and a true copy of such instrument is furnished to the purchaser before or at the time of his execution thereof, no additional itemization need be furnished to the purchaser.

In the execution of an installment sales contract, it shall be unlawful for the seller to procure the purchaser to sign a contract or receipt in blank to be filled in subsequently by the seller or financing institution; provided, however, that where such a contract or receipt contains a clear and sufficient description of the motor vehicle fully adequate to identify it readily, then blanks for insertion or identifying serial numbers and marks, when knowledge of such numbers or marks are not available to the seller at the time of execution of the contract, need not be filled in at the time of execution, provided that such identifying numbers and marks are subsequently inserted in the contract upon delivery of the motor vehicle.

Sec. 252. Interest charges. A retail seller may make a charge for interest at not exceeding the following rates:

- I. On new motor vehicles, a charge not to exceed \$6 per \$100 per year, computed on the amount of the principal balance;
- II. On used motor vehicles of a model designated by the manufacturer by a year not more than 4 years prior to the year in which the sale is made, a charge not to exceed \$9 per \$100 per year, computed on the amount of the principal balance;
- III. On older used motor vehicles of a model designated by the manufacturer by a year more than 4 years prior to the year in which the sale is made, a charge not to exceed \$12 per \$100 per year, computed on the amount of the principal balance.

Sec. 253. Refund for prepayment.

I. The buyer shall have the privilege of prepaying at any time any or all of the unpaid time balance under the installment contract, regardless of any provision to the contrary in the installment contract.

II. Whenever all of the time balance is liquidated prior to maturity by prepayment, refinancing or termination by surrender or repossession and re-sale of the motor vehicle, the holder of the installment sale contract shall refund to the buyer the unearned portion of the time price differential. Refund may be made in cash or credited to the amount due on the obligation of the buyer.

III. The unearned time price differential to be refunded to the buyer on equal installment contracts shall represent at least as great a proportion of the total time price differential as the sum of the periodic time balances after the date of prepayment bears to the sum of all the periodic time balances under the schedule of payments in the original installment contract, which is referred to as the sum of the digits or "78" method. On contracts payable in unequal installments the amount of the unearned time price differential to be refunded to the buyer shall represent an amount not greater than the amount of refund computed under the sum of the digits or "78" method if such contracts were payable in equal installments. The holder shall not be required to refund any portion of such unearned time price differential which results in a net minimum time price differential on the contract of less than \$15.

IV. In computing the refund, the licensee may charge for a full month when a fractional month period in excess of 15 days has elapsed. If less than 16 days have elapsed, a charge may be made for one-half month, except in the case of the first month of an installment contract, when a full month may be charged, or \$15, whichever is greater.

Sec. 254. Insurance premium rebate. Any unexpired insurance premium shall be refunded to the buyer on a pro rata basis in the event of refinancing and on a short term cancellation basis in the event of a close-out of the balance due on the time sales installment contract, except that in the event of an involuntary close-out the insurance premium shall be applied to the outstanding balance due on the time sales contract.

Sec. 255. Accounts and records. Every licensee shall maintain, at the place of business designated in the license certificate, such books, accounts and records of the business as will enable the Commissioner to enforce full compliance with the provisions of sections 249 to 256, inclusive.

Sec. 256. Penalties. Whoever violates any of the provisions of sections 249 to 255, inclusive, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. Any person, firm or corporation knowingly financing installment sales contracts made in violation of the provisions of sections 249 to 255, inclusive, shall be subject to the same penalties and any license or licenses issued to such person, firm or corporation to conduct the business of financing time sales on motor vehicles may be revoked.

Sec. 2. R. S., c. 60, §§ 305 and 306, repealed. Sections 305 and 306 of chapter 60 of the revised statutes are hereby repealed.