

ownership or use should be treated as a part of the finance charge. Property insurance, such as automobile physical damage insurance, is a normal incident of the ownership of a motor vehicle. No existing principle of law requires that charges for such insurance be characterized as finance charges.

Credit life and accident and health insurance present somewhat different problems. Each print of S. 5 treated credit life and accident and health insurance differently. The view of J. L. Robertson, Vice Chairman of the Federal Reserve Board, was finally adopted.

In his testimony before this Subcommittee on August 7, Governor Robertson, repeating his statement before the Senate Subcommittee on Financial Institutions, said in pertinent part:

"One of the issues that has proved troublesome during consideration of disclosure legislation has been the question of how to treat insurance premiums on policies taken out by borrowers as a condition of, and covering the amount of, the credit contract. * * *

"The fact remains, however, that inclusion in the finance charge of premiums for insurance that provides a benefit to the borrower over and above the use of credit would overstate the actual charge for credit. Therefore, we think that such premiums are not properly regarded as part of the finance charge, and should be specifically excluded, as provided in S. 5. We do believe, however, that the dollar amount of any such premiums included in the credit extended should be itemized, again as provided in S. 5."

For the reasons set out above, the previously quoted exemption for insurance contained in subsection (C) and (D) of Section 3(d)(2) of S. 5 should be added to Section 202(d)(1) of H.R. 11601.

H.R. 11601 contains the same civil and criminal penalty provisions found in S. 5. As applied to automobile dealers who handle one of the highest priced products covered by the proposed legislation, the civil penalties are inordinately excessive and call for modification.

If this legislation were easily understood and complied with, some valid argument for severe penalties might be made. But this is not the case. Installment sales made by automobile dealers are for long periods, ranging from twenty-four months to forty-two months. The penalty of two times the finance charge could, considering the complexity of the proposed legislation, result in bankruptcy for many automobile dealers. The sale of a new car with an unpaid principal balance of \$3,000 at a \$6 add-on rate for a term of three years produces a finance charge of \$540. Twice the finance charge is \$1,080. Thus, the penalty of twice the finance charge—even applying the S. 5 ceiling of \$1,000—results not only in loss to the dealer of any compensation for the credit extended but also a loss of principal.

The civil penalties now provided in S. 5 and H.R. 11601 fully protect consumers without the penalty of twice the finance charge. Under both bills, a consumer recovering a penalty is also entitled to reasonable attorneys' fees and court costs. If a consumer shows any violation whatsoever, he is entitled to a minimum penalty of \$100. It is unjustifiably harsh to impose, in addition, a penalty of twice the finance charge. Sale of an automobile on an installment plan is a complex transaction. A dealer is required to calculate, in addition to any finance charge, insurance premiums, taxes, certificate of title, and license and filing fees. The possibility of error, or of a misunderstanding leading to an allegation of error, is great and is appreciably widened if the "Truth-in-Credit Advertising" provisions of H.R. 11601 are adopted.

We strongly urge that the penalty be limited to loss of finance charge. If so limited, the consumer will lose nothing, except the possibility of a windfall. The provisions for attorneys' fees and the minimum penalty of \$100 are sufficient to encourage civil actions to enforce the purposes of S. 5. We therefore suggest that Section 206(a)(1) of H.R. 11601 be revised to read:

"Any creditor who, in connection with any credit transaction, knowingly fails, in violation of this Act or any regulation issued hereunder, to disclose any information to any person to whom such information is required to be given shall have no right to collect in connection with such transaction any unpaid finance charge and shall pay to such person or credit to his account the finance charge paid by such person to the creditor in connection with the transaction, except that the penalty shall not exceed \$1,000 on any credit transaction. If the foregoing penalty is less than \$100, the creditor shall in any event be liable to such person in the amount of \$100."