

HOUSE No. 1914

By Mr. Davis of Everett, petition of Lawrence H. Davis for legislation relative to contracts of conditional sales of personal property. Legal Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Eight.

AN ACT RELATIVE TO CONTRACTS OF CONDITIONAL SALE OF PERSONAL PROPERTY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 255 of the General Laws is
2 hereby amended by striking out section 12, as amended
3 by section 1 of chapter 410 of the acts of 1943, and
4 inserting in place thereof the following: — *Section 12.*
5 Each conditional sale which includes one or more
6 articles of personal property shall be embodied in a
7 single written contract, which contract shall contain
8 the entire agreement between the parties. Said con-
9 tract shall specifically set forth, captioned in print of
10 not less than eight point type in case a printed form
11 is used, the following: — a description of the property
12 to be sold to the vendee; the cash price thereof; the
13 down payment; a description of property to be traded
14 in, if any, and the trade-in-allowance therefor; other
15 credit allowances, if any; the difference between the

16 cash price and the aggregate of down payment and
17 allowances, if any; a description of each policy of
18 insurance procured or placed by the vendor at the
19 vendee's expense, setting forth complete information
20 as to the effective date and term of such policy, the
21 amount of the premium charged therefor, and the
22 coverage effected thereby; the total amount of finance
23 charges, if any; the "total time price"; the net
24 balance due from the vendee; the number and amount
25 of weekly, monthly or other instalment payments; a
26 statement of delinquency charges, if any; a state-
27 ment of prepayment allowances; and, if any prom-
28 issory note is to be executed in the transaction, a
29 statement that a promissory note or notes, as the
30 case may be, is or are being executed in connection
31 with the contract.

32 If the precise cost of such insurance is not available
33 at the time the contract is signed, an estimated amount,
34 ascertained from a chart prepared by the vendor and
35 approved by the commissioner of insurance, may be
36 set forth in the contract. When the cost of the in-
37 surance is so estimated, the contract shall so state,
38 and it shall further contain notice to the vendee that
39 the difference between such estimated cost and the
40 actual cost of such insurance, including finance charges
41 on such amount, will be adjusted at the time of the
42 final payment on the contract, and a statement of the
43 amount of such adjustment shall be furnished to the
44 vendee simultaneously with the delivery of the policy
45 or policies or certificate of insurance.

46 Where any insurance premium is part of the instal-
47 ment conditional sale contract, the vendor or his
48 assignee shall, within twenty days after execution of
49 the contract, send or cause to be sent to the vendee a

50 policy or policies or certificate of insurance clearly
51 setting forth the exact nature of the insurance coverage.

52 If such contract does not substantially contain the
53 subject matter as herein set forth, the vendee shall
54 have a valid defence against the recovery of all
55 finance charges and fees, exclusive of insurance
56 premiums, in any action or proceeding to enforce said
57 contract.

1 SECTION 2. Said chapter 255 is hereby further
2 amended by striking out section 13, as amended by
3 chapter 285 of the acts of 1941, and inserting in place
4 thereof the following: — *Section 13.* In case a printed
5 form is used, every such contract shall contain the
6 following notice, in print of not less than eight point
7 type, directly above the space provided in the con-
8 tract form for the signature of the vendee: “Notice
9 to Vendee. Do not sign this contract in blank.” The
10 vendor shall also obtain from the vendee a written
11 acknowledgment of the delivery of a copy of the con-
12 tract to the vendee at the time of its execution. Such
13 acknowledgment shall be printed in eight point type,
14 shall appear below the vendee’s signature to the con-
15 tract and shall be independently signed.

16 When a payment is made by the vendee under the
17 terms of any such contract, on request of the vendee,
18 such payment shall be endorsed on the contract and
19 on such copy and on any promissory note which is
20 evidence of the obligation of the vendee or set forth
21 in a receipt given to the vendee. Any such receipt
22 shall include the amount of the payment made and
23 the balance due on the contract, with a specific
24 identification of the contract to which the payment is
25 applied.

26 The vendee, notwithstanding the provisions of any
27 instalment conditional sale contract, shall have the
28 privilege of prepaying at any time all or any part of
29 the unpaid time balance under any such contract.
30 Whenever all the time balance is liquidated prior to
31 maturity by prepayment or refinancing, the holder
32 of the instalment conditional sale contract shall rebate
33 to the vendee immediately the unearned portion of
34 the finance charge. Rebate may be made in cash or
35 credited to the amount due on the obligation of the
36 vendee. The unearned finance charge to be rebated
37 to the vendee shall be calculated at the original con-
38 tract rate of charge on the total amount of full instal-
39 ments to become due and for the term of all subse-
40 quent full instalment periods; provided, that the
41 holder shall not be required to rebate any portion of
42 such unearned finance charge which results in a net
43 minimum finance charge on the contract less than
44 ten dollars. Failure of the vendor through negligence
45 to comply with any provision of this section shall
46 suspend his rights under the contract while such
47 failure continues.

1 SECTION 3. Said chapter 255 is hereby further
2 amended by striking out section 13G, inserted by
3 section 2 of chapter 509 of the acts of 1939, and insert-
4 ing in place thereof the following: — *Section 13G.*
5 Violation of any provision of section twelve, thirteen,
6 thirteen D, thirteen E or thirteen F shall be punished
7 by a fine of not less than two hundred nor more than
8 five hundred dollars or by imprisonment for six
9 months, or both.