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HOUSE BILL 1873

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State of Washington

54th Legislature

1995 Regular Session

By Representatives Padden, Costa and Hickel; by request of Attorney General

Read first time 02/13/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to consumer leases; amending RCW 63.10.020,  
2 63.10.040, and 63.10.050; adding new sections to chapter 63.10 RCW; and  
3 providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 63.10.020 and 1992 c 134 s 15 are each amended to read  
6 as follows:

7 As used in this chapter, unless the context otherwise requires:

8 (1) The term "adjusted capitalized cost" means the agreed-upon  
9 amount that serves as the basis for determining the periodic lease  
10 payment, computed by subtracting from the capitalized cost any  
11 capitalized cost reduction.

12 (2) The term "capitalized cost" means the amount ascribed by the  
13 lessor to the vehicle including optional equipment, plus taxes, title,  
14 license fees, lease acquisition and administrative fees, insurance  
15 premiums, warranty charges, and any other product, service, or amount  
16 amortized in the lease. However, any definition of capitalized cost  
17 adopted by the federal reserve board to be used in the context of  
18 mandatory disclosure of the capitalized cost to lessees in consumer

1 motor vehicle lease transactions supersedes the definition of  
2 capitalized cost in this subsection.

3 (3) The term "capitalized cost reduction" means any payment made by  
4 cash, check, or similar means, any manufacturer rebate, and net trade  
5 in allowance granted by the lessor at the inception of the lease for  
6 the purpose of reducing the capitalized cost but does not include any  
7 periodic lease payments due at the inception of the lease or all of the  
8 periodic lease payments if they are paid at the inception of the lease.

9 (4) The term "consumer lease" means a contract of lease or bailment  
10 for the use of personal property by a natural person for a period of  
11 time exceeding four months, and for a total contractual obligation not  
12 exceeding twenty-five thousand dollars, primarily for personal, family,  
13 or household purposes, whether or not the lessee has the option to  
14 purchase or otherwise become the owner of the property at the  
15 expiration of the lease, except that such term shall not include any  
16 lease which meets the definition of a retail installment contract under  
17 RCW 63.14.010 or the definition of a lease-purchase agreement under  
18 chapter 63.19 RCW. The twenty-five thousand dollar total contractual  
19 obligation in this subsection shall not apply to consumer leases of  
20 motor vehicles. The inclusion in a lease of a provision whereby the  
21 lessee's or lessor's liability, at the end of the lease period or upon  
22 an earlier termination, is based on the value of the leased property at  
23 that time, shall not be deemed to make the transaction other than a  
24 consumer lease. The term "consumer lease" does not include a lease for  
25 agricultural, business, or commercial purposes, or to a government or  
26 governmental agency or instrumentality, or to an organization.

27 ~~((+2))~~ (5) The term "lessee" means a natural person who leases or  
28 is offered a consumer lease.

29 ~~((+3))~~ (6) The term "lessor" means a person who is regularly  
30 engaged in leasing, offering to lease, or arranging to lease under a  
31 consumer lease.

32 **Sec. 2.** RCW 63.10.040 and 1983 c 158 s 4 are each amended to read  
33 as follows:

34 (1) In any lease contract subject to this chapter, the following  
35 items, as applicable, shall be disclosed:

36 (a) A brief description of the leased property, sufficient to  
37 identify the property to the lessee and lessor.

1 (b) The total amount of any payment, such as a refundable security  
2 deposit paid by cash, check, or similar means, advance payment,  
3 capitalized cost reduction, or any trade-in allowance, appropriately  
4 identified, to be paid by the lessee at consummation of the lease.

5 (c) The number, amount, and due dates or periods of payments  
6 scheduled under the lease and the total amount of the periodic  
7 payments.

8 (d) The total amount paid or payable by the lessee during the lease  
9 term for official fees, registration, certificate of title, license  
10 fees, or taxes.

11 (e) The total amount of all other charges, individually itemized,  
12 payable by the lessee to the lessor, which are not included in the  
13 periodic payments. This total includes the amount of any liabilities  
14 the lease imposes upon the lessee at the end of the term, but excludes  
15 the potential difference between the estimated and realized values  
16 required to be disclosed under (m) of this subsection.

17 (f) A brief identification of insurance in connection with the  
18 lease including (i) if provided or paid for by the lessor, the types  
19 and amounts of coverages and cost to the lessee, or (ii) if not  
20 provided or paid for by the lessor, the types and amounts of coverages  
21 required of the lessee.

22 (g) A statement identifying any express warranties or guarantees  
23 available to the lessee made by the lessor or manufacturer with respect  
24 to the leased property.

25 (h) An identification of the party responsible for maintaining or  
26 servicing the leased property together with a brief description of the  
27 responsibility, and a statement of reasonable standards for wear and  
28 use, if the lessor sets such standards.

29 (i) A description of any security interest, other than a security  
30 deposit disclosed under (b) of this subsection, held or to be retained  
31 by the lessor in connection with the lease and a clear identification  
32 of the property to which the security interest relates.

33 (j) The amount or method of determining the amount of any penalty  
34 or other charge for delinquency, default, or late payments.

35 (k) A statement of whether or not the lessee has the option to  
36 purchase the leased property and, if at the end of the lease term, at  
37 what price, and, if prior to the end of the lease term, at what time,  
38 and the price or method of determining the price.

1 (l) A statement of the conditions under which the lessee or lessor  
2 may terminate the lease prior to the end of the lease term and the  
3 amount or method of determining the amount of any penalty or other  
4 charge for early termination.

5 (m) A statement that the lessee shall be liable for the difference  
6 between the estimated value of the property and its realized value at  
7 early termination or the end of the lease term, if such liability  
8 exists.

9 (n) Where the lessee's liability at early termination or at the end  
10 of the lease term is based on the estimated value of the leased  
11 property, a statement that the lessee may obtain at the end of the  
12 lease term or at early termination, at the lessee's expense, a  
13 professional appraisal of the value which could be realized at sale of  
14 the leased property by an independent third party agreed to by the  
15 lessee and the lessor, which appraisal shall be final and binding on  
16 the parties.

17 (o) Where the lessee's liability at the end of the lease term is  
18 based upon the estimated value of the leased property:

19 (i) The value of the property at consummation of the lease, the  
20 itemized total lease obligation at the end of the lease term, and the  
21 difference between them.

22 (ii) That there is a rebuttable presumption that the estimated  
23 value of the leased property at the end of the lease term is  
24 unreasonable and not in good faith to the extent that it exceeds the  
25 realized value by more than three times the average payment allocable  
26 to a monthly period, and that the lessor cannot collect the amount of  
27 such excess liability unless the lessor brings a successful action in  
28 court in which the lessor pays the lessee's attorney's fees, and that  
29 this provision regarding the presumption and attorney's fees does not  
30 apply to the extent the excess of estimated value over realized value  
31 is due to unreasonable wear or use, or excessive use.

32 (iii) A statement that the requirements of (o)(ii) of this  
33 subsection do not preclude the right of a willing lessee to make any  
34 mutually agreeable final adjustment regarding such excess liability.

35 (p) A consumer lease of a motor vehicle that shall include:

36 (i) The capitalized cost stated as a total and the identity of the  
37 components listed in the definition of capitalized cost and the  
38 respective amount of each component;

1 (ii) Any capitalized cost reduction stated as a total and the  
2 identity of the components and the respective amount of each component;

3 (iii) A statement of adjusted capitalized cost;

4 (iv) A disclosure, in proximity to the lessees signature, in not  
5 less than ten point bold type to the lessee: "WARNING!: EARLY  
6 TERMINATION UNDER THIS LEASE MAY RESULT IN SIGNIFICANT COSTS TO YOU THE  
7 CONSUMER. READ THIS AGREEMENT CAREFULLY AND UNDERSTAND ALL PROVISIONS  
8 BEFORE SIGNING. GET ALL PROMISES IN WRITING. ORAL PROMISES ARE  
9 DIFFICULT TO ENFORCE."; and

10 (v) If the lessee trades in a motor vehicle, the amount of any  
11 sales tax exemption for the agreed value of the traded vehicle and any  
12 reduction in the periodic payments resulting from the application of  
13 the sales tax exemption shall be disclosed in the lease contract.

14 (2) (~~Any consumer lease which complies with the disclosure~~  
15 requirements of)) Where disclosures required under this chapter are the  
16 same as those required under Title I of the federal consumer protection  
17 act (90 Stat. 257, 15 U.S.C. Sec. 1667 et seq.), which is also known as  
18 the federal consumer leasing act, as of the date upon which the  
19 consumer lease is executed, disclosures complying with the federal  
20 consumer leasing act shall be deemed to comply with the disclosure  
21 requirements of this chapter.

22 NEW SECTION. Sec. 3. A new section is added to chapter 63.10 RCW  
23 to read as follows:

24 Each of the following acts or practices are unlawful in the context  
25 of offering a consumer lease of a motor vehicle:

26 (1) Advertising that is false, deceptive, misleading, or in  
27 violation of 12 C.F.R. Sec. 213.5 (a) through (d) and 15 U.S.C. 1667,  
28 Regulation M;

29 (2) Misrepresenting, directly or by implication, any of the  
30 following:

31 (a) The material terms or conditions of a lease agreement;

32 (b) That the transaction is a purchase agreement as opposed to a  
33 lease agreement; or

34 (c) The amount of any equity or value the leased vehicle will have  
35 at the end of the lease; and

36 (3) Failure to comply with the disclosure requirements of Title I  
37 of the federal consumer protection act (90 Stat. 257, 15 U.S.C. Sec.  
38 1667 et seq.), which is also known as the federal consumer leasing act,

1 including, but not limited to, failure to disclose all fees that will  
2 be due when a consumer exercises the option to purchase.

3 **Sec. 4.** RCW 63.10.050 and 1983 c 158 s 5 are each amended to read  
4 as follows:

5 The legislature finds that the practices covered by this chapter  
6 are matters vitally affecting the public interest for the purpose of  
7 applying the consumer protection act, chapter 19.86 RCW. Violations of  
8 this chapter are not reasonable in relation to the development and  
9 preservation of business. A violation of this chapter is an unfair or  
10 deceptive act or practice in ((the conduct of)) trade or commerce and  
11 an unfair method of competition for the purpose of ((the application  
12 of)) applying the consumer protection act, chapter 19.86 RCW.

13 Regarding damages awarded under this section, the court may award  
14 damages allowed under chapter 19.86 RCW or 15 U.S.C. Sec. 1667d (a) and  
15 15 U.S.C. Sec. 1640, but not both.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 63.10 RCW  
17 to read as follows:

18 The provisions of this chapter shall be cumulative and nonexclusive  
19 and shall not affect any other remedy available at law or in equity.

20 NEW SECTION. **Sec. 6.** If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected.

24 NEW SECTION. **Sec. 7.** This act shall take effect January 1, 1996.

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