CONGRESSIONAL RECORD — SENSAT

[June 14, 1967]

M. JAYTVS. Mr. President, during the Senate consideration of the investment tax credit legislation an amendment was included which would have reduced by one-third the maximum annual deductions for beef, lamb and goat meat into the United States. The amendment was dropped in conference. However, many of its features have been incorporated in a bill, S. 1588, which is presently pending before the Finance Committee.

In considering this legislation, unfortunately, little attention is being paid to the effects of import quotas on the American consumer. The bulk of the meats imported go into the production of hamburgers, Frankfurters, and other meat products widely consumed by American families and constitute an important share of their regular expenditures. The National Cattlemen's Association and the National Livestock Federation have repeatedly admitted that their support for S. 1588 would have the effect of increasing American consumer prices. It is clear that American cattlemen in a problem of overproduction which has affected the prices of meat and poultry and, to a limited extent, of bread, butter, and eggs. The facts show that American tough meat. I urge the Senate Finance Committee in considering a solution to the problems of the American cattle industry to bear very clearly in mind that the imposition of additional quotas on meat imports would have an adverse impact on millions of American consumers without being of material assistance to the cattle industry.

I ask unanimous consent that excerpts from a statement on the meat import situation to me by the Meat Importers Council be printed in the Record at the conclusion of my remarks.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

A resolution concerning the civil rights bill of 1967—recommendation for immediate passage in the Board of Chosen Freeholders of the County of Essex, N.J.

WHEREAS, Senate Bill 1026 and H.R. Bill 7500, known as the Civil Rights Bill of 1967, have been referred to the Judiciary Committee respectively in the United States Senate and House Committees; and

WHEREAS, this Board has always supported the proposition of equal opportunity and equal rights for all men and women regardless of race, color or creed; now, therefore, be it

Resolved that this Board hereby petitions the United States Senators representing the State of New Jersey and Representatives of the 10th, 11th and 12th Congressional Districts from the State of New Jersey to have these bills released from committee and recommended for immediate passage of the Civil Rights Bill of 1967 in the best interest of the public; and, be it further

Resolved that a certified copy of this resolution be forwarded to the Honorable Harriman A. Williams and Honorable Clifford P. Case, United States Senators from the State of New Jersey and the Honorable Peter W. Rodino, Jr., Honorable Joseph G. Minish and Honorable Florence Dwyer, Representatives of the 10th, 11th, and 12th New Jersey Congressional Districts.

Attorney:

HARRY DUSDIN, Clerk.

Mr. PROXMIRE. Mr. President, a significant victory for the American consumer was achieved on June 8, when a Senate Subcommittee reported unanimously the Proxmire truth-in-lending bill. For 7 years this measure, which was originated by former Senator Paul H. Douglas, had been bottled up in the Committee on Banking and Currency.

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the facts about credit and will be able to compare the cost of credit among different lenders.

One of the most controversial elements of the bill was revolving credit. The Department of Commerce made a substantial argument that revolving credit ought to be excluded from stating an annual rate. We did not accept this recommendation entirely.

Instead, we covered the extended payment revolving credit which is commonly used for financing large purchases such as refrigerators, furniture, household appliances, and automobiles. These extended payment plans would disclose the annual rate of their finance charge. On the other hand, those revolving credit plans which are most commonly used to finance small items on a short-term basis would not be required to compute the annual finance rate, but would be required to specify the monthly rate and all the credit terms.

We have also added a new provision to cover credit for agricultural purposes, thus protecting farmers as well as consumers.

I believe the bill represents a significant advance for consumer interests. Although retail credit is partially exempted, 95 percent of consumer credit would be fully covered by the bill, and there is a possibility that the full committee will extend this coverage. The bill would provide protection where the consumer needs it most.

It includes provisions which will make the bill workable to the industry while still giving the consumer the information he needs to shop wisely for credit. I am hopeful that with the unanimous report of the subcommittee the truth-in-lending bill will be speedily enacted into law.

Mr. President, I ask unanimous consent to have printed in the Congressional Record an article about the bill, published in the Wall Street Journal of June 9, 1967; a summary of the bill; and the text of a committee print reflecting the changes made by the subcommittee.

[WASHINGTON.—"Truth-in-lending" legislation scored a major breakthrough, though its proponents made important concessions to obtain unanimous approval by a Senate subcommittee.

Certain exemptions and changes in the bill approved by the subcommittee are designed to appease department stores, the housing industry, business and small businessmen in general. Moreover, the legislation, if finally enacted by Congress, wouldn't become effective until July 1, 1969, to give business time to prepare for it.

Basically, however, the subcommittee retained the essence of the bill sponsored by Sen. Proxmire [D., Wis.] and backed by the Johnson Administration. For most consumer credit, the legislation would require disclosure of "approximate" annual rate charges in percentage terms and the total cost of finance charges on an itemized basis.

SENATE BANKING COMMITTEE

Truth-in-lending legislation has been before the Senate Banking Committee for six years, but now that a nine-man subcommittee has given a compromise bill solid support it may finally be on its way to enactment. The full committee probably will take up the bill late this month, Sen. Proxmire said, and he predicts it will pass with little difficulty. Members of the committee involved in the Senate Banking Committee fight over the bill believe that the legislation's consumer impact would be minimal use of its provisions as a campaign issue on the Senate floor. There's some concern by the bill's proponents, however, about the House outlook. The Banking Committee hasn't done any work yet on a bill.

The legislation, long opposed bitterly by lenders and retail credit, is viewed by some so that consumers can shop wisely for credit and be protected against sales schemes that disguise huge interest costs. The House Banking Committee, in effect, would ease disclosure of loan transactions by which credit terms on mortgages in small transactions are stated in percentage rates well below the "true" annual rate.

STATEMENT FOR BUYER

The bill would require that before a sale is completed a buyer be given an "approximate" statement of annual interest, except in these important cases:

"Revolving credit" charge accounts, offered by almost all department store, would be exempted from the disclosure requirement. This would mean that the buyer would have to read the "approximate" annual rate must be furnished to a credit purchaser when the seller retails title of the merchandise until it is fully paid for.

The intent is to force annual-rate disclosure on sales of such "big ticket" items as refrigerators and television sets, which are stated in annual percentage terms and the total cost of finance charges on an itemized basis.

CREDIT LIFE INSURANCE

The panel extended the terms of the bill in one respect: Credit extended to farmers, up to $25,000, would be covered by truth-in-lending rules. The original bill excluded farm credit from disclosure requirements.

The bill provides civil and criminal penalties for failing to conform to disclosure requirements. A court could find a creditor liable to his customer for $100, or twice the amount of the finance charge in a transaction up to a maximum of $2,000. The maximum penalty for "knowing and willful" violations would be $5,000 and a year in prison. The Justice Department would be charged with enforcement.

The subcommittee specified, however, that a creditor able to prove "unintentional error" couldn't be held liable to a customer. The Federal Reserve Board would write detailed regulations to put truth-in-lending into effect.

[Committee Print] 8-5

A bill to assist in the promotion of economic stability by requiring the disclosure of finance charges in connection with extension of credit

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Truth in Lending Act".

DECLARATION OF PURPOSE

Sec. 2. The Congress finds and declares that economic stabilization would be enhanced and that competition among the various financial institutions engaged in the extension of consumer credit would be strengthened by the informed use of credit. The informed use of credit results...
Definitions
Sec. 3. For the purposes of this Act—
(a) "Board" means the Board of Governors of the Federal Reserve System
(b) "Credit" means the right granted by a creditor to defer payment of debt or to incur debt on a revolving basis, where the debt is contractually obligated by the obligor primarily for personal, family, household, or agricultural purposes.
(c) "Consumer credit" means a transaction in which credit is granted by a seller in connection with the sale of goods or services, if such seller regularly engages in credit transactions as a seller, and such goods or services are purchased primarily for personal, family, household, or agricultural purposes.
(d) "Finance charge" means the sum of the fees and charges payable in connection with the sale of goods or services, or an extension of credit to the benefit of the obligor, whether in connection with the sale or financing of the goods or services, or otherwise, and extends credit for which the payment of a finance charge is a necessary condition.
(e) "Annual percentage rate" means, for the purposes of sections 4(b) and 4(c), the nominal annual rate determined by the actuary or credit life or accident and health insurance. If the amount of the finance charge is $10.00 or more;
(f) "Installment open-end credit plan" means a plan which provides for a repayment schedule in the form of a bailment or lease unless the full amount due is paid before the credit is extended. A finance charge may be imposed, including the time value of money, the amount of the finance charge, and the time period for repayment of the finance charge.
(g) "Installment plan" means a plan which provides for a repayment schedule in the form of a bailment or lease unless the full amount due is paid before the credit is extended. A finance charge may be imposed, including the time value of money, the amount of the finance charge, and the time period for repayment of the finance charge.
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tended may be repaid without incurring a finance charge; 
(B) the method of determining the balance upon which a finance charge will be imposed; 
(C) the method of determining the amount of a finance charge (whether minimum or fixed amount imposed as a finance charge), the percentage rate per period of the finance charge to be imposed if any, and the instalment method under end credit plan, the equivalent annual percentage rate; and

(D) the conditions under which any other additional items of information required to be disclosed by this section shall be imposed, and the method by which they will be determined.

(3) For each billing cycle at the end of which standing balances under any account, the creditor shall disclose—

(A) the outstanding balance in the account at the beginning of the billing period; 
(B) the amount and date of each extension of credit during the period and, if a purchase was involved, a brief identification (unless previously furnished) of the goods or services purchased; 
(C) the total amount credited to the account during the period; and

(II) the date by which, or the period (if any) within which, a statement must be made to avoid additional finance charges;

(e) Written acknowledgment of receipt by a person to whom a statement is required to be given pursuant to this section shall be conclusive proof of the delivery thereof and, unless the violation is apparent on the face of the document, conclusive proof of the obligation to pay such finance charge.

(f) If there is more than one obligor, a creditor may furnish a statement of required information to only one of them. Required information need not be given in the sequence or order set forth in this section. Additional information or explanations may be included. So long as it conveys substantially the same meaning, a creditor may use language or terminology in any required statement different from that prescribed by this Act.

(g) If applicable State law requires disclosure of items of information substantially similar to or different from those required by this Act, a creditor who complies with such State law may comply with this Act by disclosing only the additional items of information required by such Act.

(h) If information disclosed in accordance with this section and any regulations prescribed hereunder is inaccurate as the result of a prepayment, late payment, adjustment, or amendment of the credit agreement through mutual consent of the parties or as permitted by law, or as the result of any act or occurrence subsequent to the delivery of the required disclosures, such error, resulting therefrom, shall not constitute a violation of this section.

(1) Whenever a creditor is required under this section to disclose a finance charge which includes any fee or commission for credit life or accident and health insurance, he shall, under procedures to be prescribed by the Board, disclose—

(1) the amount by which such finance charge is increased as a result of the inclusion of such fee or commission; and

(2) the total cost of such insurance.

(I) Subject to paragraph (2)—

(A) whenever an annual percentage rate is required to be disclosed by this section, such rate may be expressed either as a percentage rate per year, or as a dollars per hundred per year rate of the average unpaid balance; and

(B) whenever a rate other than an annual rate is used to compute a finance charge which includes any fee or commission, such rate may be expressed as a percentage rate per period of the average unpaid balance upon which the finance charge is computed or as a dollars per hundred per period rate of such balance.

(2) On and after January 1, 1972, all rates required to be disclosed by this section shall be expressed as percentage rates.

REGULATIONS

SEC. 5. (a) The Board shall prescribe regulations to carry out this Act, including provisions—

(1) describing the methods which may be used in determining annual percentage rates under section 4, including, but not limited to, the use of rules, charts, tables, or devices by creditors to convert to an annual percentage rate any add-on, discount, or other method of computing a finance charge;

(2) prescribing procedures to ensure that the information required to be disclosed under section 4 is set forth clearly and concisely; and

(3) prescribing reasonable tolerances of accuracy with respect to disclosing information required under section 4 and regulations with respect to reasonable tolerances of accuracy as required by subsection (a) of section 5(a), the Board shall observe the following limitations:

(1) The annual percentage rate may be rounded to the nearest quarter of 1 per cent for computations payable in substantially equal installments when a creditor determines the total finance charge on the basis of an add-on, discount, periodic, or other rate, and such computations may be converted into an annual percentage rate under procedures prescribed by the Board;

(2) such rates may be authorized in cases where the total finance charge is determined in a manner other than that specified in paragraph (1).

Such tables or charts may provide for the disclosure of annual percentage rates which vary up to 5 per cent of the rate as defined by section 3(f). However, any creditor who willfully and knowingly uses such tables or charts in such a manner as to constitute deceptive practices, or who uses false or misleading representations of such tables or charts, as defined by section 3(f), shall be liable for criminal penalties under section 7(h) of this Act.

(3) In the case of creditors determining the annual percentage rate in a manner other than as described in paragraph (1) or (2), the Board may authorize other reasonable tolerances.

(4) In order to simplify compliance where rigid rules are not practical, the Board may prescribe regulations on the Use of rate tables or charts to avoid additional finance charges, permissible under such laws in connection with credit transactions that are substantially similar to those required by section 4, and contain adequate provisions for enforcement.

(5) Any violation of the provisions in section 7, nothing contained in this Act, any regulations issued hereunder shall affect the validity or enforcement of any contract or obligation under State or Federal law.

CIVIL AND CRIMINAL PENALTIES

SEC. 7. (a) (1) Any creditor who, in connection with any credit transaction, knowingly fails in violation of this Act, or any regulations issued thereunder, to disclose any information to any person to whom such information is required to be given, shall be liable to such person for each such violation of $100, or in any amount equal twice the finance charge required by such creditor in connection with such transaction, whichever is the greater, except that such liability shall not exceed $2,000 on any credit transaction.

(2) In any action brought under this subsection in which the creditor disclosed a percentage rate or amount less than that required to be disclosed by the Board (after taking into account permissible tolerances), or failed to disclose any required information, such creditor shall be subject to a rebuttable presumption that such violation was made knowingly. Such presumption shall be rebutted if the creditor shows by a preponderance of evidence that the violation was not intentional and resulted from bona fide error notwithstanding the maintenance of procedures reasonably adapted
to avoid any such error. Provided, that a creditor shall have no liability under this subsection if within fifteen days after discovering the error, and prior to the institution of any action for recovery or the receipt of written notice of the error, the creditor notifies the person concerned of the error and makes whatever adjustments in the appropriate account as are necessary to insure that such person will not be required to pay as a result of such error any amount or percentage rate so disclosed.

(3) Any action under this subsection may be brought in any court of competent jurisdiction from the occurrence of the violation. In any such action in which a person is entitled to recover damages to the extent of the overcharge, and are distinguished from ordinary revolving credit by the extended length of time permitted for repayment and the maintenance of a security interest, such plans would be covered if 60% or less any amount of credit was payable in one year, or if the seller maintained a security interest, if any, in the property sold.

The purpose of this amendment is to allow an insurant the protection of an open-end installment credit to revolving credit merely to escape annual rate disclosure. The amendment also provides greater comparability between installment open-end credit plans and installment closed-end credit plans. Smaller merchants who extend credit through installment contracts can compete with larger stores who use extended payment revolving credit.

Because testimony was not heard on this amendment, the full Committee will hold open hearings on June 20 to hear such testimony.

2. Exemption for Small Retail Credit Transactions. Any retail credit transaction would be exempt from the annual rate requirement if the annual charge was less than $10. The purpose of this amendment was to exempt small retail businesses.

3. First Mortgage Credit: First mortgage credit was exempted from the entire bill. The Subcommittee felt that there were no abuses in this area and that consumers were already receiving adequate information.

4. Civil Penalties: The bill was amended to permit a creditor to defend against a civil action by proving the failure to disclose was not an unintentional error. However, the burden of proof would be on the creditor, and he would have to establish, by a preponderance of evidence, that such error was unintentional. The amendment also permits a creditor to escape liability for an error if the creditor could not make whatever adjustments are necessary to ensure that the consumer will not pay a finance charge in excess of the amount or percentage rate actually disclosed.

5. Effective Date: The effective date of the bill was postponed to July 1, 1969. The purpose of the change is to permit the States to amend their usury statutes in those cases where the disclosure of an annual percentage rate might possibly cause a legal problem. In addition, the later date permits the States to pass similar disclosure legislation, thereby securing an exemption from the Federal law.

6. Form of Rate Statement: The Subcommittee amended the bill to permit a rate statement either in percentage terms or as a stated annual rate. The original bill provided only the commission on such insurance paid directly or indirectly to the creditor would be included in calculating the annual percentage rate. The original bill provided for such an exemption from civil penalties only if the overstatement was due to an "error of commission," which left some doubt about the meaning of this phrase. The original bill also had no such exemption under the criminal penalties section.

Amendments of a technical and clarifying nature were adopted.

ERIE CANAL BOAT MUSEUM

Mr. JAVITS, Mr. President, as one of the sponsors and longtime advocates of the Federal Arts and Humanities Foundation Act, I am glad to bring to the attention of the Senate a laudable innovation sponsored by the New York State Council on the Arts.

This summer, between July 1 and Labor Day, the council will present the Erie Canal Sesquicentennial Exhibition, commemorating the 150th anniversary of the canal. A two-deck display, canal boats, and other exhibits on the history and operation of the canal, will visit approximately 30 communities between Albany and Buffalo. This celebration furthered the purpose of the Federal Act, which is to bring the best in arts and culture to the smaller communities of the Nation.

As the canal was an important step in the development of New York State, the council hopes all persons having access to these exhibits, free of charge, will be able to appreciate the historic role the canal has played, and continues to play, as the New York State Barge Canal System.

Begun in 1817 and opened in 1825, the Erie Canal was one of the largest public works projects to have been undertaken in its day. Opening a direct water route to the western frontiers, the canal established New York as the leading economic center of the period.

Today, the Erie Canal is a motion-picture tour of the canal; printed materials on the construction and early operation of the canal; working models of a canal lock and boats; an arrangement of technical inventions inspired by