

Reported Recommending.....
Ind. Postponed.....
Passed House.....
Failed to Pass House.....
Passed Senate.....
Failed to Pass Senate.....

House File 323

February 16, 1943.
Public Health.

By CARLSON.

A BILL FOR

An Act to amend section two thousand two hundred thirty-one (2231) Code, 1939, relating to appointment of health officers by local boards of health in cities and towns.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. Section two thousand two hundred thirty-
2 one (2231), Code, 1939, is hereby amended by striking
3 the period after the word "officer" in line five (5) of
4 said section and in lieu thereof, inserting a comma (,) and
5 adding thereafter the following: "excepting cities having
6 a population of sixty thousand or over in which
7 case the local board of such city shall appoint a physician
8 who shall be health officer, and two assistants, one of
9 which said assistants shall be a woman."

EXPLANATION OF H. F. 323

This bill provides for appointment of two health officers, one of which must be a woman, and applies to cities having a population over 60,000.

40 The term “retail installment contract” means any written
41 instrument, lawful under this act, which is executed in
42 connection with any retail installment sale and is required
43 by section two (2) hereof or is authorized by section three
44 (3) hereof, and the term may include all such instruments
45 executed in connection with any retail installment sale.

46 The terms “contract to sell”, “sale”, and “conditional
47 sale” shall have the same meaning in this act as they are
48 respectively defined in the Uniform Sales Act and Uniform
49 Conditional Sales Act.

50 The term “conditional sales contract” means any written
51 instrument evidencing a conditional sale.

52 The term “bank or trust company” means any national
53 banking association formed under the laws of the United
54 States with its principal office located in this state and
55 doing business herein and any bank or trust company, any bank
56 of discount and deposit, loan, and trust and safe deposit
57 company or trust company organized and doing business under
58 the provisions of any law of this state.

59 The term “department” means “The Department of Financial
60 Institutions.”

61 The term “manufacturer” means a person who is engaged,
62 directly or indirectly, in the manufacture or distribution of
63 specific goods which may become the subject matter of a
64 retail installment sale in this state.

65 The term “finance charge” means any consideration which

66 the retail buyer contracts to pay the retail seller for the
67 privilege of paying the principal balance in installments over
68 a period of time.

69 The term "security interest" means a property interest
70 in goods which are the subject matter of a retail installment
71 sale, limited in extent to securing performance of some obli-
72 gation of the retail buyer or of some third person to the
73 retail seller and includes the interest of a mortgagee of the
74 goods and title to the goods whether or not expressed to be
75 absolute, whenever such title is, in substance, retained for
76 security only.

1 Sec. 2. Written Instrument. Every retail installment
2 sale shall be evidenced by an instrument in writing signed by
3 the retail buyer, and a copy thereof shall be delivered to
4 him by the retail seller at the time of its execution. An
5 acknowledgment of the delivery thereof contained in the body
6 of the instrument shall be conclusive proof of delivery in
7 any action to enforce any obligation arising out of the retail
8 installment sale. The written instrument shall contain all of
9 the agreements of the parties made with reference to the
10 specific goods which are the subject matter of the retail
11 installment sale, and shall set forth specifically all items
12 and matters required by this act. The reference to insurance
13 shall recite generally the type or types of insurance the
14 retail seller has agreed to procure for the retail buyer but
15 such reference to insurance shall not be construed to imply

16 the scope of the coverage, the terms, exceptions, limitations,
17 restrictions or conditions of the contract or contracts of
18 insurance to be furnished. Nothing in this act shall be
19 construed to require the retail seller to comply with the
20 provisions hereof at any time prior to the delivery of the
21 specific goods to the retail buyer.

1 Sec. 3. Retail Installment Contracts. Any retail seller
2 may require any retail buyer to execute and deliver a
3 promissory note to evidence the indebtedness created by any
4 retail installment sale, and, to secure the payment of the
5 indebtedness created by the sale or evidenced by the promis-
6 sory note or to secure the performance of any other condition
7 of the sale, may require the retail buyer to execute and de-
8 liver a conditional sale contract, chattel mortgage, or other
9 instrument to give the retail seller a security interest in
10 the specific goods which were the subject matter of the retail
11 installment sale. A written instrument required by section
12 two (2) hereof may evidence a conditional sale.

1 Sec. 4. Provisions of Written Instruments. Every writ-
2 ten instrument evidencing a retail installment sale shall
3 recite the following separate items as such and in the
4 following order:

5 1. The cash price of the specific goods.

6 2. The amount in cash of the retail buyer's down payment,
7 whether made in money or goods or partly in money or partly
8 in goods.

9 The term "down payment" for the purpose of this section,
10 shall mean that part payment of the cash price required by the
11 retail seller as a condition to the delivery of the specific
12 goods sold or to be sold or to the extension of credit to the
13 retail buyer for any portion of the cash price.

14 3. The unpaid balance of the cash price payable by the
15 retail buyer to the retail seller which is the difference
16 between items (1) and (2).

17 4. The cost to the retail buyer of any insurance the
18 retail buyer has agreed to procure, if the retail seller has
19 agreed to purchase the insurance and extend credit to the
20 retail buyer for the price thereof.

21 5. The principal balance owed on the retail installment
22 contract which is the sum total of items (3) and (4).

23 6. The amount of the finance charge.

24 7. The time balance owed by the retail buyer to the
25 retail seller and the number of installment payments required
26 and the amount and date of each payment necessary finally to
27 pay the time balance which is the sum total of items (5) and
28 (6).

29 Item (4) and item (6) may be added together and stated
30 as one sum in the written instrument and if so stated item (5)
31 may be omitted, but in such event the retail seller shall,
32 within twenty-five days after the making of the retail install-
33 ment contract, mail to the retail buyer at his address as
34 shown on the retail installment contract a statement reciting

35 the separate amounts of items (4) and (6).

1 Sec. 5. The Insurance. Any retail seller who, in any
2 retail installment contract, has agreed to purchase insurance
3 for the retail buyer and to extend credit for the price there-
4 of, shall, within twenty-five days after the making of the
5 retail installment contract, mail to the retail buyer at his
6 address as shown on the retail installment contract, a policy
7 or policies of insurance or in lieu thereof a certificate
8 briefly describing the protection afforded by the insurance
9 procured, and the kind and amount thereof. If the premium
10 for insurance of like kind and amount, as fixed in the
11 published manual of a recognized standard rating bureau
12 designated by the retail seller, is less than the amount
13 charged the retail buyer as fixed in the written instrument
14 in compliance with item (4) of section four (4) hereof, the
15 retail buyer may deduct an amount equal to the difference
16 from the amount of the last payment owed the retail seller.
17 If, before the sale, assignment or transfer of the retail
18 installment contract, the retail seller has not purchased
19 the insurance for the retail buyer which the former, under
20 the terms of the retail installment contract, is required to
21 purchase, any licensee hereunder who becomes the owner,
22 assignee or transferee of the retail installment contract
23 shall, within twenty-five days after the execution of the
24 assignment, purchase the insurance and mail the policies or
25 certificates, instead of the retail seller as required above,

26 and may, subject to the provisions of this section, collect
27 and receive the amount of the cost thereof which was included
28 as a part of the principal balance of the retail installment
29 contract.

1 Sec. 6. The Finance Charge and Prepayment. Subject to
2 the provisions of this act, any retail seller at the time of
3 making any retail installment sale may contract for the pay-
4 ment of a finance charge by the retail buyer and collect and
5 receive the same. The finance charge contracted for in any
6 retail installment contract may not exceed the maximum finance
7 charge then authorized by the department as in this act
8 provided. Every retail buyer shall have the right, at any
9 time, to pay the then unpaid time balance owed on any retail
10 installment contract, whether then due or not, and upon pay-
11 ment thereof, any holder of the retail installment contract
12 shall reduce the amount of the then unpaid time balance by the
13 amount fixed and determined in force as of the date of the
14 making of the particular retail installment contract and
15 applicable to such cases. The reduction herein authorized
16 may be known as a discount and every retail buyer, upon full
17 prepayment of any unpaid time balance owed by him on any re-
18 tail installment contract, shall receive the discount but
19 only in the amount, at the times and upon the conditions pro-
20 vided herein. The department shall and is hereby authorized
21 to fix and determine the amount of any discount to be given
22 for prepayment as in this section authorized but no such dis-

23 count shall be for an amount in excess of the amount of the
24 finance charge on any particular retail installment contract.

25 Every retail seller may, at the time of making any
26 retail installment sale, contract for the payment by the
27 retail buyer of lawful delinquent charges for failure to pay
28 any installment of the time balance on the date specified in
29 the retail installment contract, and any retail seller or
30 any lawful holder of a retail installment contract in which
31 delinquent charges are contracted for may collect and receive
32 the charges lawfully contracted for.

1 Sec. 7. Limitation on Amount of Debt and Charges. No
2 retail installment contract authorized by section three (3)
3 of this act which is executed in connection with any retail
4 installment sale shall evidence any indebtedness in excess of
5 the time balance fixed, in the written instrument in compli-
6 ance with item (7) of section four (4) of this act, but it
7 may evidence in addition, any agreements of the parties in-
8 cluding agreements for the payment of delinquent charges,
9 taxes and fees, including attorney's fees. No retail seller,
10 directly or indirectly, shall contract for or receive from
11 any retail buyer, as consideration for the extension of
12 credit to the retail buyer for the amount of the principal
13 balance, any further or other amount whatsoever for examina-
14 tion, service, brokerage, commission, expense, fee or other
15 thing of value then the finance charge, charges and fees
16 permitted by this act, taxes on account of any retail install-

17 ment contract or on specific goods sold thereunder and any
18 lawful fees actually paid out by the retail seller to any
19 public officer for filing and recording or releasing any
20 instrument securing the payment of the obligation owed on any
21 retail installment contract. The lawful fees may be collected
22 when the retail installment contract is made or at any time
23 thereafter, but may not be included in the principal balance
24 fixed in the written instrument in compliance with item (5)
25 of section four (4) hereof.

1 Sec. 8. In no case shall the total amount of charges,
2 interest or any other charge incident to the making or the
3 administration of loan or contract by the finance company
4 exceed nine dollars per annum for each one hundred dollars
5 lent.

1 Sec. 9. Limitation on Recovery and Enforcement of Lien.
2 No retail installment contract which evidences an indebtedness
3 greater than allowed by section seven (7) hereof and no retail
4 installment contract in connection with which any charge pro-
5 hibited by this act has been contracted for or received shall
6 be enforceable against any retail buyer for any amount in
7 excess of the principal balance thereof and no security in-
8 terest created by any such retail installment contract in
9 connection with which an indebtedness is evidenced which is
10 greater than allowed by section seven (7) hereof or in con-
11 nection with which any charge prohibited by this act has been
12 contracted for or received shall be enforceable for an amount

13 in excess of the principal balance against any retail buyer
14 in default under the terms of the retail installment contract.

1 Sec. 10. Limitation on Assignment of Contracts. Except
2 as in this section otherwise provided, every retail install-
3 ment contract shall be assignable and the interest therein
4 transferable to any person or persons. No retail seller may
5 sell, assign and transfer any retail installment contract to
6 any person other than a licensee under this act. Any retail
7 installment contract which is or has been owned by a
8 licensee may be enforced and collected by the holder thereof
9 according to its lawful terms.

1 Sec. 11. Purchase of Retail Installment Contracts. Any
2 licensee hereunder may purchase any retail installment con-
3 tract on such terms and conditions not inconsistent with the
4 provisions of this act, and at such price and upon such terms
5 as to the payment of the price, as may be agreed upon between
6 the licensee and the retail seller. The records of the
7 licensee shall show the price actually paid for retail install-
8 ment contracts separately assigned to such licensees but retail
9 installment contracts may be assigned in group or in bulk to
10 any licensee as may from time to time be authorized by the
11 department by regulation without disclosing the purchase price
12 of the individual retail installment contracts. The depart-
13 ment is authorized to make regulations from time to time
14 concerning the purchase by licensees of retail installment
15 contracts in group or in bulk and any purchase of such retail

16 installment contracts made within the terms of the regulations
17 shall not be construed as an attempt to avoid the operation
18 and effect of this act.

19 No licensee shall enter into any agreement with any retail
20 seller regarding the purchase of any retail installment
21 contract whereby the retail seller shall receive, directly or
22 indirectly, any benefit from or part of any amount collected
23 or received from any retail buyer, as a finance charge or as
24 the cost of the insurance to the retail buyer, in excess of an
25 amount fixed and determined by the department and no licensee
26 shall directly or indirectly pay any part of the amount col-
27 lected as a finance charge or retail buyer's cost of insurance
28 to any retail seller on any retail installment contract pur-
29 chased from him in excess of the amount so fixed; and the
30 department shall fix such maximum amount which may be so paid
31 but without regard to any differentiation as to whether the
32 retail installment contract is sold to the licensee with re-
33 course on the seller in the event of the default of the buyer
34 or without such recourse or under an agreement by which the
35 seller agrees to repurchase the specific goods described in
36 the retail installment contract if such buyer in such
37 contract defaults and such goods are repossessed.

38 The provisions of this section shall not apply to any
39 bona fide loan made to any retail seller which the retail
40 seller is under an unqualified duty to repay as such, and
41 which he has secured as to payment, by the sale, assignment,

42 or transfer of retail installment contracts to the lender.

1 Sec. 12. Licensees. No person shall purchase retail
2 installment contracts from a retail seller doing business
3 in this state or engage in the business of purchasing retail
4 installment contracts from retail sellers doing business in
5 this state or, unless a bank or trust company, make loans to
6 a retail seller doing business in this state on the security
7 of retail installment contracts or engage in the business of
8 making loans to retail sellers in this state on the security
9 of retail installment contracts unless the department has li-
10 censed such person to do such business and has issued to the
11 person a written instrument evidencing the license as in
12 this act provided. Any person who desires to purchase retail
13 installment contracts from retail sellers doing business in
14 this state or to engage in the business of purchasing retail
15 installment contracts from retail sellers doing business in
16 this state or, unless a bank or a trust company, to make loans
17 to retail sellers doing business in this state on the security
18 of retail installment contracts or to engage in the business
19 of making loans to retail sellers doing business in this state
20 on the security of retail installment contracts, shall file an
21 application for a license on forms prescribed by the depart-
22 ment and pay the fees required herein.

1 Sec. 13. Application for License and Fees. The applica-
2 tion for license shall contain:

3 1. The name and address of the principal office of the

4 applicant,

5 2. If applicant has one or more branches operating in
6 this state, the place of business of each such branch at
7 the date of the application,

8 3. The trade name, if any, under which applicant's
9 business is to be conducted, and if applicant is a co-partner-
10 ship, the name of every member thereof, and if a corporation, the name
11 of each officer and director thereof,

12 4. The total authorized investment used or to be used
13 in the business in this state and if a corporation, the
14 amount of the capital stock thereof issued and outstanding,

15 5. A statement of the total amount of business transacted
16 by it in this state during the fiscal year next preceding the
17 date of the application,

18 6. Such other information touching the business of the
19 applicant as the department may require.

20 The department is hereby authorized to prescribe the .
21 forms of the application and require such additional informa-
22 tion as to it may seem necessary properly to regulate the
23 business of the licensee. The forms prescribed shall require
24 the applicant to agree to give notice to all retail sellers
25 in this state with which it does business, when requested so
26 to do by the department, of any and all orders which the
27 department may make respecting classes of retail installment
28 sales or contracts or maximum finance charges as provided
29 in section twenty-six (26) of this act and to keep in this

30 state, subject to examination, adequate records pertaining to
31 the business done in this state.

32 The application shall be verified by the proper person
33 and every applicant, other than a bank or trust company or
34 an industrial loan and investment company authorized to issue
35 certificates of indebtedness or investment, shall pay the
36 department the sum of one hundred dollars as an annual
37 license fee at the time of the filing of the application.

38 Any bank or trust company or industrial loan and investment
39 company authorized to issue certificates of indebtedness or
40 investment which shall apply for a license under this act
41 shall pay the department the sum of ten dollars as annual
42 license fee at the time of filing of the application. If
43 the period for which the license is to run is less than six
44 months, one-half of the annual fee shall be charged. On or
45 before the 20th day of June in each year every licensee shall
46 pay the department the annual license fee provided herein for
47 such licensee for the year commencing on the next succeeding
48 July 1 and shall file an application in the form prescribed
49 by the department. All license fees collected by the
50 department shall be paid into the state treasury and become
51 a part of the financial institution's fund and subject to the
52 provisions of law relating thereto.

1 Sec. 14. Approval or Rejection of Application. Upon
2 the filing of any application for license and the payment of
3 the license fee required by this act, if the department shall

4 find that the applicant can operate its business economically
5 and efficiently, it shall thereupon issue and deliver a
6 license to the applicant. In considering economic and
7 efficient operation the department shall take into considera-
8 tion the fact that this act is designed to promote competition
9 between licensees for the benefit of the class of retail
10 buyers within its scope. The license shall authorize the
11 applicant to do the business otherwise prohibited by this
12 act. The license shall remain in full force and effect until
13 it is surrendered, revoked or suspended as in this act
14 provided. If the department shall find that the applicant
15 cannot operate its business economically and efficiently
16 within the scope of this act, it shall not issue a license
17 to the applicant but shall notify the applicant of the
18 denial, and return to the applicant the fee theretofore
19 paid. The department shall give every applicant a reasonable
20 opportunity to be heard with respect to the application,
21 and shall approve or deny, by written order, every applica-
22 tion for license hereunder within thirty days from the
23 hearing thereon.

1 Sec. 15. Form of License. The instrument evidencing
2 the license shall be in such form as may be prescribed by
3 the department, and in addition thereto shall contain the
4 following:

- 5 1. The name of the person licensed,
- 6 2. The name of all partners if applicant is a copartner-

7 ship,

8 3. The principal office of the applicant.

9 The instrument evidencing the license, or a certified
10 copy thereof provided by the department, shall be kept
11 posted conspicuously in the principal office of applicant and
12 in every branch maintained and operated by applicant in this
13 state.

1 Sec. 16. Revocation of License. The department is
2 hereby authorized to revoke or suspend any license issued
3 under this act, if, after hearing, it finds:

4 1. That the licensee has refused to permit the department
5 to make any examination authorized hereunder or has failed to
6 pay the cost of any examination made by the department or the
7 annual license fee required hereby or any penalty assessed by
8 the department against the licensee, or

9 2. That the licensee has wilfully failed to comply with
10 any rule or regulation of the department lawfully made here-
11 under, or

12 3. That the licensee has wilfully violated any provision
13 of this act, or any rule or regulation of the department
14 lawfully made hereunder, or

15 4. That the licensee has wilfully avoided or attempted
16 to avoid the operation or effect of this act by purchasing
17 any retail installment contract or contracts at a less price
18 than the unpaid balance thereon or by entering into any
19 agreement, ~~combination~~ or understanding, express or implied,

4 find that the applicant can operate its business economically
5 and efficiently, it shall thereupon issue and deliver a
6 license to the applicant. In considering economic and
7 *efficient operation the department shall take into considera-*
8 *tion the fact that this act is designed to promote competition*
9 *between licensees for the benefit of the class of retail*
10 *buyers within its scope. The license shall authorize the*
11 *applicant to do the business otherwise prohibited by this*
12 *act. The license shall remain in full force and effect until*
13 *it is surrendered, revoked or suspended as in this act*
14 *provided. If the department shall find that the applicant*
15 *cannot operate its business economically and efficiently*
16 *within the scope of this act, it shall not issue a license*
17 *to the applicant but shall notify the applicant of the*
18 *denial, and return to the applicant the fee theretofore*
19 *paid. The department shall give every applicant a reasonable*
20 *opportunity to be heard with respect to the application,*
21 *and shall approve or deny, by written order, every applica-*
22 *tion for license hereunder within thirty days from the*
23 *hearing thereon.*

1 Sec. 15. Form of License. The instrument evidencing
2 the license shall be in such form as may be prescribed by
3 the department, and in addition thereto shall contain the
4 following:

- 5 1. The name of the person licensed,
- 6 2. The name of all partners if applicant is a copartner-

7 ship,

8 3. The principal office of the applicant.

9 The instrument evidencing the license, or a certified
10 copy thereof provided by the department, shall be kept
11 posted conspicuously in the principal office of applicant and
12 in every branch maintained and operated by applicant in this
13 state.

1 Sec. 16. Revocation of License. The department is
2 hereby authorized to revoke or suspend any license issued
3 under this act, if, after hearing, it finds:

4 1. That the licensee has refused to permit the department
5 to make any examination authorized hereunder or has failed to
6 pay the cost of any examination made by the department or the
7 annual license fee required hereby or any penalty assessed by
8 the department against the licensee, or

9 2. That the licensee has wilfully failed to comply with
10 any rule or regulation of the department lawfully made here-
11 under, or

12 3. That the licensee has wilfully violated any provision
13 of this act, or any rule or regulation of the department
14 lawfully made hereunder, or

15 4. That the licensee has wilfully avoided or attempted
16 to avoid the operation or effect of this act by purchasing
17 any retail installment contract or contracts at a less price
18 than the unpaid balance thereon or by entering into any
19 agreement, combination or understanding, express or implied,

20 with any retail seller the effect of which agreement, combina-
21 tion or understanding may be to avoid or attempt to avoid the
22 operation or effect of this act.

23 The department shall give any licensee whose license it
24 proposes to revoke ten days' notice in writing of the
25 contemplated action and of the general grounds therefor.
26 Before the license is revoked or suspended, the licensee shall
27 be given reasonable opportunity to be heard. License
28 may be revoked or suspended only by written order. If the
29 department finds that the grounds for revocation or suspension
30 of the license are applicable only to one branch or some
31 branches operated by the licensee, it may revoke or suspend
32 the license as to that branch or those branches only, or it
33 may revoke the right of the licensee to do business as a
34 licensee in this state. No revocation or suspension or
35 surrender of any license shall impair or affect the obliga-
36 tion of any lawful retail installment contract theretofore
37 made.

1 Sec. 17. Recourse to Court. Any person feeling
2 aggrieved with any decision of the department made as in this
3 act provided may commence an action in the circuit or superior
4 court of the county in which the business operated by such
5 person is located against said department as defendant to
6 vacate or set aside any such order or decision of the depart-
7 ment upon the grounds that any such regulation, order or de-
8 cision of the department is insufficient, unreasonable or

9 unlawful, in which action a copy of the complaint shall be
10 served with the summons. The answer of the department to the
11 complaint shall be filed within ten days after service of
12 summons. All such actions shall have precedence over civil
13 cases not of the same nature pending in any such court and
14 such circuit or superior court shall always be deemed open for
15 the trial thereof and the same shall be tried and determined
16 as other civil actions.

17 Any such proceeding, action or suit to set aside or
18 vacate any decision or order of the department or to prevent
19 in any way such order or decision from becoming effective
20 shall be commenced and every right of recourse to the courts
21 shall be exercised within thirty days after the entry or
22 rendition of such order or decision and the right to commence
23 any such action, proceeding or suit or to exercise the right
24 of any recourse to the courts shall terminate absolutely at
25 the end of such thirty days after such entry or rendition
26 thereof. Either party to any such action in the circuit or
27 superior court shall have a right of appeal to the supreme
28 court of the State of Iowa as in other civil cases.

1 Sec. 18. Surrender of License. Any licensee hereunder
2 may surrender any license theretofore issued to it by the
3 department at any time after ten days' notice to the depart-
4 ment in writing stating that the licensee proposes to and
5 does thereby surrender the license as of a certain effective
6 date named. The surrender of a license by a licensee shall

7 not affect the civil or criminal liability or liability for
8 fees or penalties which the licensee may be under by virtue
9 of any act done prior to the surrender of the license.

1 Sec. 19. Report of Licensees. Every licensee hereunder
2 shall annually on or before the 15th day of March file a
3 report with the department giving such relevant information
4 as the department may require concerning the business and
5 operation of the licensee in this state during the preceding
6 calendar year. The report shall be made under oath and in
7 the form prescribed by the department.

1 Sec. 20. Examination of Licensees. The department may
2 at any time investigate the business done in this state by
3 any licensee hereunder, and for that purpose examine the
4 books, accounts, records and files used and maintained by
5 such licensees and their agents, brokers or other representa-
6 tives. The department may also investigate the business of
7 any person who is not a licensee hereunder and who is doing
8 any business or act, the doing of which is prohibited hereby
9 to persons other than licensees or banks or trust companies.
10 For the purpose of discovering violations of this act and
11 procuring information necessary to fix a maximum finance charge
12 applicable to retail installment contracts, the department in
13 making investigations authorized by this section shall have
14 access to all books, accounts, papers, records, files, safes
15 and vaults of any persons being examined, and may require
16 such persons to attend and testify relative to any transac-

17 tions or business which may come within the scope of this
18 act. In case of the disobedience on the part of any person
19 to comply with any lawful order of the department or any
20 lawful subpoena, or upon the refusal of any witness to
21 appear and testify to any matter regarding which he may be
22 lawfully interrogated, upon petition of the department
23 setting forth the facts, it shall be the duty of the circuit
24 or superior court of the county of which such person is a
25 resident, or the judge thereof in vacation, to compel
26 obedience to the lawful requirements of the subpoena or
27 order and to compel the production of necessary and required
28 books, papers, records, documents and other evidence, and
29 upon the failure, refusal or neglect of any person to comply
30 with the order of the court or the judge thereof, such person
31 shall be punished as for contempt of court.

1 Sec. 21. Costs of Examination. The department shall
2 prescribe and fix a schedule of fees, which are hereby
3 imposed and shall be charged and collected by the department,
4 for the services rendered and the duties performed by the
5 department, under and by virtue of the provisions of this
6 act in the supervision, regulation and examination of
7 licensees hereunder and the schedule of fees so prescribed.
8 The fees fixed and prescribed in the schedule may include the
9 cost incurred by the department in fixing a finance charge
10 under the provisions of this act. No licensee shall be
11 required to pay any fee for examination unless the cost to

12 the department of making such examination shall exceed the
13 license fee paid in compliance with the provisions of this
14 act. All costs assessed by the department at the time of the
15 making of any examination and paid by the licensee shall be
16 paid into the state treasury and become a part of the finan-
17 cial institution's fund and subject to the provisions of law
18 relating thereto. If any licensee refuses to permit the
19 department to make an examination it shall be subject to
20 such penalty as the department may assess, not in excess of
21 one hundred dollars for each day any such refusal shall con-
22 tinue. Any penalty assessed by the department may be
23 collected in an action brought in the name of the State of
24 Iowa in the circuit or superior court of the county in which
25 the licensee has its principal place of business.

1 Sec. 22. Contracts to Prevent Competition. No manufac-
2 turer shall sell or contract to sell specific goods which
3 may become the subject matter of a retail installment sale
4 in this state, whether patented or unpatented, to any retail
5 seller in this state on the condition or with an agreement
6 or understanding, express or implied, that the retail seller
7 shall sell, assign or transfer any retail installment
8 contracts arising from the retail installment sales of the
9 goods, or any part thereof, only to a designated licensee or
10 class of licensees, when the effect of the condition, agree-
11 ment or understanding may be to lessen or eliminate competi-
12 tion, or create, or tend to create, a monopoly in the

13 licensee or class designated. Any such condition, agreement
14 or understanding with any retail seller in this state is
15 hereby declared to be against the public policy of this state
16 and to be unlawful and void.

1 Sec. 22. Acts Tending to Prevent Competition. Any
2 threat, express or implied, made directly or indirectly, to
3 any retail seller in this state by any manufacturer that the
4 manufacturer will discontinue or cease to sell, or refuse to
5 enter into a contract to sell, or will terminate a contract
6 to sell, specific goods which may become the subject matter
7 of a retail installment sale in this state, whether patented
8 or unpatented, to the retail seller, unless the retail
9 seller sells, assigns or transfers the retail installment
10 contracts arising from his retail installment sales to
11 any designated licensee or class of licensees, shall be prima
12 facie evidence that the manufacturer has sold or intends to
13 sell such specific goods on the condition or with the agreement
14 or understanding prohibited by section twenty-two hereof.

1 Sec. 24. Further Acts Tending to Prevent Competition.
2 Any threat, express or implied, made directly or indirectly to
3 any retail seller in this state by any licensee hereunder that
4 is affiliated with or controlled by any manufacturer that the
5 manufacturer will terminate his contract with or cease to
6 sell specific goods which may become the subject matter of a
7 retail installment sale to the retail seller unless the retail
8 seller sells, assigns or transfers the retail installment

9 contracts arising from his retail installment sales to the
10 licensee making the threat, shall be presumed to be made at the
11 direction of and with the authority of the manufacturer and
12 shall be prima facie evidence of the fact that the manufacturer
13 has sold or intends to sell the specific goods on the condition
14 or with the agreement or understanding prohibited by section
15 twenty-two hereof.

1 Sec. 25. Subsidy of Licensees. No manufacturer shall
2 pay or give or contract to pay or give any thing or service
3 of value to any licensee in this state, and no licensee in
4 this state shall accept or receive or contract or agree to
5 accept or receive, directly or indirectly, any payment, thing
6 or service of value from any manufacturer, if the effect of
7 the payment or giving of any such thing or service of value
8 by the manufacturer, or the acceptance or receipt thereof by
9 the licensee, may be to lessen or eliminate competition or
10 tend to create or create a monopoly in the licensee that
11 accepts or receives the payment, thing or service of value or
12 contracts or agrees to accept or receive the same.

1 Sec. 26. Rules and Regulations. The department shall
2 have authority from time to time to make, amend and rescind
3 rules and regulations necessary to carry out and enforce the
4 provisions of this act, including rules and regulations
5 governing the business done in this state by licensees, the
6 content of reports required from licensees and the manner
7 and extent of examinations made of the business of licensees.

8 Among other things, the department shall have authority to
9 prescribe forms in which required information shall be set
10 forth, items or details to be shown in balance sheets and
11 earning statements, and methods to be followed in the prepara-
12 tion of accounts necessary to reflect factors in the business
13 of the licensee to be reckoned with by the department when
14 fixing a maximum finance charge on retail installment con-
15 tracts. The rules and regulations of the department, other
16 than those issued pursuant to the authority vested in the
17 department by section twenty-seven of this act, shall be pub-
18 lished and be effective in the manner and at the time pre-
19 scribed by the department. No provision of ths act imposing
20 any liability shall apply to any act done or omitted in good
21 faith in conformity with any rule or regulation of the depart-
22 ment, notwithstanding that the rule or regulation may, after
23 the act or omission, be amended or rescinded or be determined
24 by judicial or other authority to be invalid for any reason.

1 Sec. 27. Classification of Retail Contracts and Variable
2 Finance Charges. It shall be the duty of the department and
3 the department shall have power, jurisdiction and authority to
4 investigate retail installment contracts and ascertain the
5 facts with reference to retail installment sales and upon the
6 basis of the ascertained facts:

7 1. To classify, by general order, retail installment
8 sales or retail installment contracts arising therefrom,
9 according to such system of differentiation as may reasonably

10 distinguish the classes of retail installment sales or the
11 contracts made in connection with such sales, and

12 2. To determine and fix by a general order the fair
13 maximum finance charge that may be contracted for in any
14 retail installment contracts or that may be contracted for
15 in retail installment contracts of any classes which may be
16 established by the department, and

17 3. To determine and fix by a general order the fair
18 maximum charges that may be contracted for in any retail
19 installment contract and which may be imposed upon the retail
20 buyer for failure to pay any installment of the time balance
21 when it is due.

22 The department, in determining the classes of retail
23 installment sales or contracts, shall take into consideration
24 the specific goods sold thereunder, the use thereof, the
25 length of time usually given to the retail buyer in which to
26 pay the unpaid balance owing on any retail installment con-
27 tracts made in connection with the sales and any other
28 factors which may reasonably afford a basis for the applica-
29 tion of different finance charges on retail installment
30 contracts which have or are likely to have the same or
31 substantially the same unpaid balances.

32 The department, in determining the fair maximum finance
33 charge which may be contracted for in any retail installment
34 contracts or in any retail installment contracts of any
35 classes which may have been established by it, shall take into

36 consideration the availability of credit facilities to
37 individuals who do not have the security generally required
38 by commercial banks and the finance charge which will be
39 necessary in order to induce sufficient amounts of efficiently
40 operated commercial capital to enter into the business of
41 making and purchasing retail installment contracts. The
42 department shall fix charges sufficient to provide adequate
43 credit facilities for retail installment sales.

44 The department may, from time to time, upon the basis of
45 changed conditions or facts, reclassify retail installment
46 sales and retail installment contracts, and redetermine and
47 refix any maximum finance charge previously fixed by it, but
48 the new finance charge shall not affect pre-existing retail
49 installment contracts lawfully made. Any and all orders which
50 the department may make respecting classes of retail install-
51 ment sales or contracts or maximum finance charges shall fix
52 the effective date of the new or changed classification or
53 finance charge, but the effective date shall not be earlier
54 than thirty days after the date when notice of such new or
55 changed classification or finance charge is published. Notice
56 to the public, to retail sellers and to licensees hereunder
57 shall be given by publication of the new or changed classifi-
58 cation or finance charge by one publication in a daily
59 newspaper of general circulation printed and published in
60 the English language in the city of Des Moines. In addition,
61 the department may require licensees hereunder to give notice

62 of such new or changed classification or finance charge to
63 all retail sellers with whom the licensees do business in the
64 state.

65 Any finance charge fixed by the department under the
66 provisions of this act shall be lawful notwithstanding any
67 other laws of this state.

1 Sec. 28. Duty of Retail Seller and Licensee. Every
2 person to which this act is applicable shall conduct and
3 transact his business in the manner required hereby and
4 every licensee hereunder shall establish and maintain methods
5 for the conduct of his business and affairs coming within
6 the scope of this act in accordance with the requirements
7 hereof and of any rule or regulation of the department made
8 in relation thereto and under the authority of this act.

1 Sec. 29. Waiver of Statutory Protection. No agreement
2 of any retail buyer before or at the time of the making of
3 any retail installment contract shall constitute a valid
4 waiver of any provisions of this act.

1 Sec. 30. Violation of Act—Punishment. Any person
2 who wilfully violates any of the provisions of this act, or
3 the rules and regulations promulgated by the department under
4 the authority hereof, or any person who wilfully in any report
5 or account filed in pursuance of any provision of this act or
6 rule or regulation of the department makes any untrue state-
7 ment of a material fact or omits to state any material fact
8 necessary to give the department the information lawfully

9 required by it shall, upon conviction, be fined not more than
10 one thousand dollars or imprisoned not more than one year or
11 both.

1 Sec. 31. Any contract made in violation of this act
2 shall be null and void and unenforceable against the borrower.

1 Sec. 32. Interpretation. This act shall be interpreted
2 and construed in connection with and as supplemental to the
3 Uniform Sales Act and the Uniform Conditional Sales Act and
4 any terms used in this act which are defined in either of said
5 acts shall have the meaning given thereto by the aforemen-
6 tioned acts unless the context hereof clearly requires another
7 meaning. Nothing in this act shall be construed to repeal
8 any part of either of the acts mentioned in this section or
9 any existing law of this state relating to interest or consid-
10 eration that may be charged upon the loan, use or forbearance
11 of money or sale of credit, but this act shall be construed
12 as supplemental thereto.

1 Sec. 33. Existing Contracts. None of the provisions of
2 this act shall apply to any sale or to any contract to sell
3 made prior to the taking effect of this act which, if made after
4 this act takes effect, would be a retail installment sale or
5 contract and this act shall not affect pending litigation.

1 Sec. 34. Captions. No caption of any section of this
2 act shall in any way affect interpretation of this act or
3 any part thereof.

1 Sec. 35. Severability Clause. If any provision of this

2 act or the application thereof to any person or circumstances
3 is held invalid, such invalidity shall not affect other
4 provisions or applications of the act which can be given
5 effect without the invalid provision or application, and to
6 this end the provisions of this act are declared to be
7 severable.

1 Sec. 36. Short Title. This act may be cited as the
2 Retail Installment Sales Act.

1 Sec. 37. This act, being deemed of immediate impor-
2 tance, shall be in effect from and after its publication in
3 The Tabor Beacon, a newspaper published at Tabor, Iowa, and
4 in The Randolph Enterprise, a newspaper published at
5 Randolph, Iowa.

EXPLANATION OF H. F. 324

Small finance companies are at present unregulated and the finance charges which they may charge are not clearly set out in the Code. This bill will put the small finance companies under the supervision and regulation of the banking superintendent and to clarify, limit and regulate the charges the finance companies may make and to provide penalties for violations.