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## Recent Legislative Activity

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## Acceleration Clauses

A new law passed by Virginia broadens the effect of its statute governing acceleration clauses in installment loans. The statute provided that notes evidencing installment loans with add-on interest may contain acceleration clauses. The new law allows contracts evidencing installment loans and installment sales obligations to also contain acceleration clauses. Acceleration clauses provide that the entire unpaid balance of a loan shall become due upon the default in payment of any installment by the borrower. Further, an accelerated balance shall bear interest at the rate shown, or which should have been shown if a consumer credit transaction were involved. **1991 Va. Acts 365.**

## Smoke Detection Devices

Montana law now requires that the seller of a dwelling must give the buyer written notification of whether or not the dwelling is equipped with smoke or other fire detection devices. This required notice must be given to the buyer in the buy-sell agreement or at the time of the sale. The law defines "dwelling" as a building or portion of a building, including a mobile home or house trailer, which contains the living facilities for not more than two families. Noncompliance or negligence in complying with this new law, however, does not make the seller liable in any civil action. Evidence of such is also not admissible in a civil action. **1991 Mont. Laws 181**

## Garage Door Opening Systems

Minnesota has recently amended its automatic garage door opening systems law, adding the "automatic reversing requirement" for residential automatic garage door opening systems. The law now pro-

hibits anyone from repairing or servicing an automatic garage door system that does not have a reversing device. A reversing device includes an edge sensor or safety beam which when triggered will cause a closing door to open and prevents an open door from closing. This device is built so that a failure of the device prevents the door from closing altogether. The new Minnesota law also requires the person repairing such a system to test the system and if the system fails the test, to attach a red warning label which states that the garage door opener does not meet the requirements for a working safety reverse feature. The warning label further states that this can be highly dangerous, may cause serious injury or death and advises the owner to disconnect the opener from the door immediately in order to operate it manually. **1991 Minn. Sess. Law Serv. 104 (West).**

## Rental Car Company Regulation

The House of Representatives is currently considering the **Collision Damage Waiver Act of 1991**. The Act would prohibit car rental companies from holding authorized drivers liable for any damage, except in certain circumstances, requiring security deposits for damage and selling collision damage waivers. The Act does allow a car rental company to hold an authorized driver liable for damage in several situations. These situations include those in which the damage is caused intentionally, while the driver was intoxicated or under the influence of an illegal drug, while the driver was in a speed contest, while the driver was committing a crime, or while the driver was transporting items for hire. A rental car company that violates the proposed law would be assessed with civil penalties of not less than \$500 and no more than \$1,000 for each violation. **H.R. 1293, 102d Cong., 1st Sess. (1991).**

## Auto Dealer Advertising

California is considering an Act that would prohibit auto dealers to advertise a vehicle for sale for an amount above, below, or at the manufacturer's or distributor's invoice price to the dealer unless the invoice price is the amount that the dealer paid the manufacturer or distributor at the time the motor vehicle was purchased. The Act would also provide that the invoice price may exceed actual dealer cost for the vehicle because of refunds, rebates, allowances, or incentives which the manufacturer or distributor may provide to the dealer. However, a copy of the invoice must be shown to any customer upon request. Additionally, the Act would prohibit: (1) dealers from advertising free merchandise, gifts, or services contingent on the purchase of a vehicle; (2) guaranteed trade-in allowances unless the guarantee is provided by the manufacturer or distributor; and (3) rebates or cash back offers unless the rebate is expressed in a specific dollar amount and is offered by the manufacturer or distributor directly to the retail purchaser. A violation of these provisions would be a misdemeanor punishable by California state law. **1991 Cal. A.B. 1763 (IPA).**

## Plain Language Contracts

Pennsylvania is considering the **Plain Language Consumer Contract Act** which will require all consumer contracts to be written in easily understandable language. The Act is intended to protect consumers from entering contracts they do not understand. It will help consumers to know better their rights and duties under those contracts. In determining whether a contract meets the plain language requirement, language guidelines are provided and should be considered. The guidelines state that the contract should make use of short words, sentences, and paragraphs,

active verbs should be used as much as possible, technical legal terms and foreign or Latin words should be avoided, sentences should not contain more than one condition, and double negatives and exceptions to exceptions should not be used. However, some contracts would be exempted from this law. They include real estate contracts, consumer contracts of amounts over \$50,000, contracts for the purchase of securities, and marital agreements. Additionally, the Act would make creditors, lessors, and sellers who do not comply with this Act liable to consumers for the amount of actual loss caused by the violation. **1991 Pa. H.B. 133 (IPA).**

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### Heavy Metal Packaging

California is considering the **Heavy Metal Packaging Waste Act** of 1991. The Act would prohibit the use of package or packaging in any bottling or manufacturing process for any product sold if it is composed of any intentionally introduced lead, mercury, cadmium, or hexavalent chromium. Packaging means any part of a package, including any interior or exterior cushioning, weatherproofing, coating, closure, ink, label, dye, adhesive or other additive. The Act is a response to the hazards to public health and safety and to the environment caused by the toxicity of these materials which may leach from landfills, if buried, or contaminate the air, if incinerated. **1991 Cal. A.B. 1609 (IPA).**

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### Battery Disposal

Minnesota law now regulates the disposal of batteries in order to protect the environment. The new law states that a manufacturer of batteries must ensure that there is a system for the collection, transportation, and processing of waste batteries for all battery purchasers in the state. The manufacturer must clearly inform every purchaser of a battery about this system and of the prohibition on disposal of waste batteries. The law also provides that at the time of sale, the manufacturer must provide the

purchaser with a telephone number so that the consumer may call and be informed of the proper disposal of the battery. Additionally, the new law prohibits manufacturers from selling, distributing, or offering for sale any alkaline manganese batteries containing more than 0.025% mercury by weight and retail sellers of rechargeable batteries, or products powered by these batteries, are required to post notice that it is illegal to put rechargeable batteries in the garbage and that a collection and disposal system does exist. Violation of the new law results in fines of \$100 for each violation. **1991 Minn. Sess. Law Serv. 257 (West).**

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### Merchant's Check Acceptance

New Hampshire law now prohibits merchants from requiring consumers to provide credit card numbers and expiration dates as a condition for either cashing or accepting checks. Merchants may request consumers to display their credit cards for identification purposes or as an indication of credit worthiness, but the merchants are limited to recording only the type of credit card displayed and the issuer of the card. The law does not, however, prohibit merchants from recording the consumer's credit card number and expiration date in lieu of a deposit to ensure payment in the event of a default, loss, or damage. **1991 N.H. Laws 65.**

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### Ground Beef Labeling

Montana passed a new law which specifies the requirements for the labeling of hamburger and ground beef. The law requires that the labels on certain hamburger and ground beef state content in terms of lean and fat. The new law also revised the acceptable levels of fat content for lean and extra lean hamburger and ground beef and provided for a super lean grade of hamburger and ground beef. The law defines lean hamburger or ground beef as beef with a fat content no greater than 22% and a lean content of no less than 78%.

Extra lean hamburger or ground beef may have a fat content of no greater than 16% and a lean content of no less than 84%. Super lean hamburger or ground beef may have a fat content of no greater than 12% and a lean content of no less than 88%. Additionally, the law prohibits retailers and food service establishments from using the term "hamburger" to refer to a beef patty mix. If a beef patty mix is sold retail or through a food service establishment, a list of ingredients must appear on the menu or label, or if no menu or label is used, on a placard which is posted in a permanent place conspicuous to the consumers. If hamburger or ground beef is sold retail, the grade and maximum fat and minimum lean contents must appear on the label of the packages or if the product is not packaged, on a placard. **1991 Mont. Laws 133.**

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### Returnable Annuity Policies and Certificates

North Dakota law now gives a person who purchases an annuity policy or certificate issued in the state the right to return the policy within twenty days of delivery. If the policy or certificate is returned, the purchaser is entitled to a refund of the premium. The new law requires that every annuity, policy, or certificate issued or delivered in the state bear a prominent notice on the first page stating the purchaser's right to return the policy or certificate within twenty days of delivery, and have the premium refunded if the purchaser is not satisfied after an examination of the policy or certificate. Accident and health policies and certificates must bear the same notice. **1991 N.D. Laws 317.**

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