



# House of Representatives

General Assembly

**File No. 97**

January Session, 2005

Substitute House Bill No. 6521

*House of Representatives, March 30, 2005*

The Committee on General Law reported through REP. STONE, C. of the 9th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING PREPAID HOME HEATING OIL CONTRACTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16a-23n of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) A contract for the retail sale of home heating oil that offers a  
4 guaranteed price plan, including fixed price contracts and any other  
5 similar terms, shall be in writing and the terms and conditions of such  
6 price plans shall be disclosed. Such disclosure shall be in plain  
7 language and shall immediately follow the language concerning the  
8 price or service that could be affected and shall be printed in no less  
9 than twelve-point boldface type of uniform font.

10 (b) A home heating oil dealer that advertises a price shall offer said  
11 price for a period of no less than twenty-four hours or until the next  
12 advertised price is publicized, whichever occurs first.

13 (c) No home heating oil dealer shall enter into a prepaid home

14 heating oil contract unless such dealer has either: (1) Obtained and  
15 maintained heating oil futures contracts or other similar commitments  
16 that allow such dealer to purchase heating oil at a fixed price in an  
17 amount equal to not less than seventy-five per cent of the maximum  
18 number of gallons that such dealer is committed to deliver pursuant to  
19 all prepaid home heating oil contracts entered into by such dealer, or  
20 (2) obtained and maintained a security bond in an amount equal to not  
21 less than fifty per cent of the total amount of funds paid to the dealer  
22 by consumers pursuant to prepaid home heating oil contracts. Such  
23 dealer shall maintain the amount of futures contracts or the security  
24 bond amount required by this subsection for the period of time for  
25 which such prepaid home heating contracts are effective, except that  
26 such futures contracts or bond amount may be reduced during such  
27 period of time to reflect any amount of heating oil already delivered to  
28 and paid for by the consumer.

29 (d) No prepaid home heating oil contract shall require any  
30 consumer commitment to purchase oil pursuant to the terms of such  
31 contract for a period of more than eighteen months.

32 (e) Any prepaid home heating oil contract shall indicate: (1) The  
33 amount of funds paid by the consumer to the dealer under such  
34 contract, (2) the maximum number of gallons of heating oil committed  
35 by the dealer for delivery to the consumer pursuant to such contract,  
36 and (3) that performance of such prepaid home heating oil contract is  
37 secured by one of the two options described in subsection (c) of this  
38 section. Any such contract shall provide that the contract price of any  
39 undelivered heating oil owed to the consumer under the contract, on  
40 the end date of such contract, shall be reimbursed to the consumer not  
41 later than thirty days after the end date of such contract unless the  
42 parties to such contract agree otherwise.

43 Sec. 2. Section 16a-23p of the general statutes is repealed and the  
44 following is substituted in lieu thereof (*Effective from passage*):

45 The Department of Consumer Protection may suspend or revoke  
46 any registration issued under section 16a-23m if the holder of such

47 registration is grossly incompetent, engages in malpractice or unethical  
 48 conduct or knowingly makes false, misleading or deceptive  
 49 representations regarding such holder's work, [or] violates any  
 50 provision of section 16a-23n, as amended by this act, or violates any  
 51 regulations adopted under section 16a-23q. Before any such  
 52 registration is suspended or revoked, such holder shall be given notice  
 53 and opportunity for hearing as provided in regulations adopted by the  
 54 Commissioner of Consumer Protection in accordance with the  
 55 provisions of chapter 54.

56 Sec. 3. Section 16a-23r of the general statutes is repealed and the  
 57 following is substituted in lieu thereof (*Effective from passage*):

58 (a) A violation of the provisions of section 16a-23m, 16a-23n or 16a-  
 59 23o constitutes an unfair trade practice under subsection (a) of section  
 60 42-110b.

61 (b) In accordance with the provisions of section 53a-11, any home  
 62 heating oil dealer who knowingly violates the provisions of subsection  
 63 (c) of section 16a-23n, as amended by this act, shall have committed a  
 64 class A misdemeanor.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16a-23n
Sec. 2	<i>from passage</i>	16a-23p
Sec. 3	<i>from passage</i>	16a-23r

**GL**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 06 \$</b>	<b>FY 07 \$</b>
Consumer Protection, Dept.	GF - None	None	None
Judicial Dept.; Correction, Dept.	GF - Cost	Potential	Potential
Judicial Dept.	GF - Cost	Less than 50,000	Less than 50,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill makes it a crime, designated as a class A misdemeanor, for any home heating oil dealer to knowingly violate the bill’s requirement to obtain and maintain future contracts or a security bond. An offense is subject to a penalty of up to one year in prison, a fine of up to \$2,000, or both. It is anticipated that few offenses would be prosecuted each year and, consequently, any revenue gain from criminal fines under the bill would be minimal. To the extent that offenders are prosecuted criminally and subsequently convicted or plead guilty, the state could incur a cost associated with incarceration and/or probation supervision in the community. On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

The bill also authorizes the Department of Consumer Protection to suspend or revoke a registration for violating the bill’s requirements and prohibitions. This has no fiscal impact.

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**OLR Bill Analysis**

sHB 6521

**AN ACT CONCERNING PREPAID HOME HEATING OIL CONTRACTS**

**SUMMARY:**

This bill prohibits home heating oil dealers from entering into prepaid contracts with consumers unless the dealer has secured the contracts with either a minimum level of heating oil futures contracts or a surety bond of a certain amount. It sets standards for prepaid home heating oil contracts and establishes civil and criminal penalties for violating its provisions.

EFFECTIVE DATE: Upon passage

**FUTURES CONTRACTS AND SECURITY BONDS**

If a dealer secures prepaid contracts with heating oil futures contracts or similar commitments that allow him to purchase oil at a fixed price, he must hold an amount at least equal to 75% of the maximum number of gallons that he commits to providing under all of his prepaid contracts. If a dealer secures contracts with a surety bond, he must obtain a security bond at least equal to 50% of the total amount he received from consumers under his prepaid contracts. The future contracts or bonds must be maintained for as long as the prepaid contracts are in force, but the amount may be reduced to reflect deliveries.

**CONTRACT STANDARDS**

The bill requires the contracts to state: (1) the amount the consumer must pay, (2) the maximum number of gallons the dealer is committed to deliver, and (3) that the dealer's ability to fulfill the contract is secured by either futures contracts or a surety bond. It prohibits prepaid home heating oil contracts from committing consumers to purchase oil for longer than 18 months. It requires contracts to provide that the contract price of undelivered heating oil owed under the contract on its end date must be reimbursed to the consumer within 30 days, unless the dealer and consumer agree otherwise.

**CIVIL AND CRIMINAL PENALTIES**

The law requires home heating oil dealers to register with the Department of Consumer Protection (DCP) and authorizes DCP to suspend or revoke a registration after notice and hearing for such things as gross incompetency. The bill also authorizes DCP to suspend or revoke a registration for violating the bill’s requirements and prohibitions and the laws requiring (1) home heating oil contracts that include a guaranteed price to be written and disclose their terms and conditions, and (2) home heating oil dealers that advertise a price to offer it for at least 24 hours or until the next price is advertised, whichever comes first.

A home heating oil dealer who knowingly violates the bill’s requirement to obtain and maintain futures contracts or a security bond commits a class A misdemeanor, and is subject to a penalty of up to one year in prison, a fine of up to \$2,000, or both. In accordance with state law, a person is criminally liable for actions he performs or causes to be performed in the name of, or on behalf of, a corporation or limited liability corporation to the same extent as if they were performed in his name or on his own behalf (CGS § 53a-11).

**COMMITTEE ACTION**

General Law Committee

Joint Favorable Substitute  
Yea 15    Nay 0