



Senate

General Assembly

File No. 136

February Session, 2006

Substitute Senate Bill No. 391

Senate, March 27, 2006

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE SALE OF HOME HEATING OIL AND PROPANE FUEL.

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

1 Section 1. Section 14-329 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 (a) The standard gallon shall be the unit of measurement for all sales
4 of gasoline, kerosene, fuel oils or similar substances sold or offered for
5 sale for the purpose of creating power or heat. Each delivery of
6 gasoline in a quantity of fifty gallons or more and each delivery of
7 kerosene, fuel oil or similar substance in a quantity of five gallons or
8 more shall be the complete contents of a vehicle tank or it shall be
9 through a meter. Each such tank or meter shall be sealed by a sealer of
10 weights and measures before being used. The term "vehicle tank", as
11 used herein, means a container, which may or may not be subdivided
12 into two or more compartments, mounted upon a wagon or motor
13 truck and used for the delivery of such fluids. The term "compartment"
14 means the entire tank whenever the tank is not subdivided; otherwise

15 it means any one of those subdivided portions of the tank which are
16 designed to hold such fluids. Each delivery through a meter shall be
17 delivered through a meter equipped with a numeral reset counter, a
18 register with a zero start or an accumulative ticket printer, which
19 meters shall print an accurate record of all deliveries in gallons and
20 tenths. Such ticket printer shall print the gallonage reading of the
21 meter before and after delivery is made and each ticket shall be locked
22 in the meter between readings so as to prevent fraud. Each delivery
23 shall be accompanied by a delivery ticket and a duplicate thereof, on
24 which shall be distinctly expressed in ink or other indelible substance,
25 in gallons, or gallons and tenths when so required, the quantity of such
26 fluid so delivered, with the name of the seller and the name of the
27 purchaser of such fluid. One of such tickets shall be surrendered, upon
28 demand, to the sealer of weights and measures, for his inspection, and
29 such ticket or, when the sealer desires to retain the original ticket, a
30 measure slip issued by the seller or his agent, shall be delivered to the
31 purchaser or his agent or representative at the time of the delivery of
32 such fluid. If the purchaser or his agent takes such fluid from the place
33 of purchase, a delivery ticket showing the actual number of gallons, or
34 gallons and tenths, delivered shall be given to the purchaser or his
35 agent at the time of delivery. Delivery tickets shall bear the name or
36 identification number of the seller's driver and shall be sequentially
37 numbered. Copies of delivery tickets shall be retained by the seller for
38 one year and shall be available for inspection during normal business
39 hours. No seller, or agent of such seller, shall possess a delivery ticket
40 which has been printed with a record of a delivery which has not
41 occurred. The method of determining the number of gallons of any
42 such fluid delivered shall be by measuring the same in measures that
43 have been tested and sealed by a sealer of weights and measures.

44 (b) No person, firm or corporation shall sell at retail fuel oil or
45 propane gas to be used for residential heating unless all of the
46 purchaser's costs associated with such fuel oil or propane gas,
47 including, but not limited to, unit price and any delivery surcharge, are
48 disclosed to the purchaser, in writing, at the time the purchaser enters
49 into a purchase contract with the seller or at the time of renewal of

50 such contract. Such disclosures shall be made by the seller when the
51 purchaser places an order for such fuel oil or propane gas if there is no
52 contract between the seller and purchaser.

53 [(b)] (c) The provisions of this section shall not apply to barge,
54 railroad tank car, drum or slow flow meter delivery.

55 [(c)] (d) The provisions of this section requiring meters to print
56 tenths of a gallon shall not apply to bulk plant deliveries to a reseller,
57 or bulk delivery of gasoline to service stations for resale. On other
58 high-speed, large volume deliveries, the Commissioner of Consumer
59 Protection may waive the one-tenth gallon requirement, upon request.
60 On all of these deliveries the meters shall print an accurate record in
61 gallons.

62 [(d)] (e) Any person who, by himself or by his agent or employee, or
63 as the employee or agent of another, violates any provision of this
64 section shall be subject to the penalties provided in [section 43-9]
65 chapter 750, concerning weights and measures, or chapter 296,
66 concerning operation of fuel supply businesses, as applicable.

67 Sec. 2. Section 16a-23m of the general statutes is repealed and the
68 following is substituted in lieu thereof (*Effective October 1, 2006*):

69 (a) On or after October 1, 2001, no person, firm or corporation shall
70 engage in the retail sale of home heating oil or propane gas without a
71 certificate of registration as a home heating oil or propane gas dealer
72 issued pursuant to this section. Only one registration shall be required
73 of a dealer to engage in both the retail sale of heating oil and propane
74 gas.

75 (b) Each person, firm or corporation seeking registration as a home
76 heating oil or propane gas dealer shall apply annually for a certificate
77 of registration with the Department of Consumer Protection on forms
78 prescribed by the Commissioner of Consumer Protection. Each
79 applicant shall pay a registration fee of one hundred dollars. The
80 commissioner shall require all applicants for registration as a home

81 heating oil or propane gas dealer to provide evidence of general
82 liability insurance coverage and insurance to cover any potential
83 environmental damage due to fuel oil spills or propane gas leaks
84 caused by such applicant as a registered dealer which coverage shall
85 be not less than one million dollars. Each registered dealer shall
86 provide the department with evidence of each renewal of or change to
87 such insurance coverage not later than five days after such renewal or
88 change during the period of registration, which renewal or change
89 shall meet the requirements of this subsection.

90 (c) Each registered dealer shall display its registration number in all
91 advertisements and other materials prepared or issued by the dealer,
92 which contain information on such dealer.

93 (d) The insurance company of a home heating oil or propane gas
94 dealer shall notify the Commissioner of Consumer Protection, in
95 writing, upon cancellation of insurance required by subsection (b) of
96 this section by any home heating oil or propane gas dealer. The
97 Commissioner of Consumer Protection shall revoke the registration of
98 any such dealer without the insurance coverage required by subsection
99 (b) of this section.

100 Sec. 3. Section 16a-23n of the 2006 supplement to the general statutes
101 is repealed and the following is substituted in lieu thereof (*Effective*
102 *October 1, 2006*):

103 (a) A contract for the retail sale of home heating oil or propane gas
104 that offers a guaranteed price plan, including fixed price contracts and
105 any other similar terms, shall be in writing and the terms and
106 conditions of such price plans shall be disclosed. Such disclosure shall
107 be in plain language and shall immediately follow the language
108 concerning the price or service that could be affected and shall be
109 printed in no less than twelve-point boldface type of uniform font.

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

113 (c) No home heating oil or propane gas dealer shall enter into a
114 prepaid home heating oil or propane gas contract or a capped price per
115 gallon home heating oil contract unless such dealer has either: (1)
116 Obtained and maintained heating oil or propane gas futures contracts
117 or other similar commitments that allow such dealer to purchase, at a
118 fixed price, heating oil or propane gas in an amount not less than
119 seventy-five per cent of the maximum number of gallons or amount
120 that such dealer is committed to deliver pursuant to all prepaid home
121 heating oil or propane gas contracts entered into by such dealer or that
122 such dealer estimates is committed pursuant to all capped price per
123 gallon home heating oil or capped price per unit propane gas
124 contracts, respectively, or (2) obtained and maintained a surety bond in
125 an amount not less than fifty per cent of the total amount of funds paid
126 to the dealer by consumers pursuant to prepaid home heating oil or
127 propane gas contracts or that the dealer estimates will be paid to the
128 dealer by consumers pursuant to all capped price per gallon home
129 heating oil or capped price per unit propane gas contracts,
130 respectively. Such dealer shall maintain the amount of futures
131 contracts or the amount of the surety bond required by this subsection
132 for the period of time for which such prepaid home heating oil or
133 propane gas contracts or capped price per gallon home heating oil or
134 capped price per unit propane gas contracts are effective, except that
135 the amount of such futures contracts or surety bond may be reduced
136 during such period of time to reflect any amount of home heating oil
137 or propane gas already delivered to and paid for by the consumer.

138 (d) No prepaid home heating oil or propane gas contract shall
139 require any consumer commitment to purchase home heating oil or
140 propane gas pursuant to the terms of such contract for a period of
141 more than eighteen months.

142 (e) Any prepaid home heating oil or propane gas contract shall
143 indicate: (1) The amount of funds paid by the consumer to the dealer
144 under such contract, (2) the maximum number of gallons of home
145 heating oil or maximum amount of propane gas committed by the
146 dealer for delivery to the consumer pursuant to such contract, and (3)

147 that performance of such prepaid home heating oil or propane gas
148 contract is secured by one of the two options described in subsection
149 (c) of this section. Any such contract shall provide that the contract
150 price of any undelivered home heating oil or propane gas owed to the
151 consumer under the contract, on the end date of such contract, shall be
152 reimbursed to the consumer not later than thirty days after the end
153 date of such contract unless the parties to such contract agree
154 otherwise.

155 Sec. 4. Section 16a-23o of the general statutes is repealed and the
156 following is substituted in lieu thereof (*Effective October 1, 2006*):

157 Any person, firm or corporation required to register as a home
158 heating oil or propane gas dealer pursuant to section 16a-23m, as
159 amended by this act, that offers plumbing or heating work service
160 shall submit evidence, deemed satisfactory by the Commissioner of
161 Consumer Protection, when registering, that such person, firm or
162 corporation subcontracts with or employs only persons licensed or
163 registered pursuant to chapter 393 to perform such work. Such person,
164 firm or corporation shall attest, when applying for registration as a
165 dealer pursuant to section 16a-23m, as amended by this act, that all
166 plumbing or heating work service shall be performed in accordance
167 with the provisions of chapter 393. Anyone registered under this
168 section who offers such plumbing or heating services shall display the
169 state license number of the subcontractor or employee performing
170 such work for the registrant on all commercial vehicles used in their
171 business and shall display such number in a conspicuous manner on
172 all printed advertisements, bid proposals, contracts, invoices and
173 stationery used in the business.

174 Sec. 5. Section 16a-23s of the general statutes is repealed and the
175 following is substituted in lieu thereof (*Effective October 1, 2006*):

176 The Department of Consumer Protection shall establish a list of all
177 registered home heating oil and propane gas dealers. The department
178 shall make the list available to all wholesalers of home heating oil or
179 propane gas doing business in the state and such wholesalers shall

180 only sell to the registered home heating oil or propane gas dealers on
181 said list.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	14-329
Sec. 2	October 1, 2006	16a-23m
Sec. 3	October 1, 2006	16a-23n
Sec. 4	October 1, 2006	16a-23o
Sec. 5	October 1, 2006	16a-23s

Statement of Legislative Commissioners:

In subsection (c) of section 3 "capped price per unit" was inserted before "propane" for accuracy.

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:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Consumer Protection, Dept.; Attorney General; Judicial Dept.	Various - Revenue Gain	Minimal	Minimal
Correction, Dept.; Judicial Dept. (Probation)	GF - Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires propane dealers to register with the Department of Consumer Protection (DCP) under the same terms as home heating oil dealers. Under current law, each applicant for a home heating oil dealer registration must pay \$100. To the extent that the bill increases the potential number of registrants, this could result in a minimal revenue gain to the state.

According to current law, a violation of certain home heating oil dealer laws is an unfair trade practice. Under the Connecticut Unfair Trade Practices Act (CUTPA), the Department of Consumer Protection and the Attorney General can impose CUTPA fines.

In the case of settlements, depending on the negotiation terms, funds are either deposited into the DCP's Consumer Protection Settlement Account or the unrestricted resources of the General Fund. Funds deposited into the Consumer Protection Settlement Account are used only to enhance activities that further consumer protection. In FY 05, \$92,298 in CUTPA fines were deposited into the DCP Consumer Protection Settlement Account. Additionally, in FY 05, \$356,751 in CUTPA fines were deposited into the General Fund as a result of settlements negotiated by the Office of the Attorney General (OAG).

The state agencies could accommodate the workload associated with enforcement of the bill without requiring additional resources. To the extent that the bill increases the potential for future violations, the bill could result in a minimal revenue gain to the state.

The bill's provisions could result in the imposition of additional criminal penalties. To the extent that offenders are subject to incarceration or probation supervision in the community as a result of these changes, a potential cost to criminal justice agencies exists. 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). Any revenue gain from the imposition of criminal fines is anticipated to be minimal.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis
sSB 391

***AN ACT CONCERNING THE SALE OF HOME HEATING OIL AND
PROPANE FUEL.***

SUMMARY:

This bill requires propane dealers to register with the Department of Consumer Protection (DCP) to sell to residential customers under the same terms as home heating oil dealers.

It prohibits both home heating oil dealers and propane dealers from selling their products for residential heating unless all of a purchaser's costs, including unit price and delivery surcharges, have been disclosed in writing when the customer (1) enters or renews the purchase contract or (2) places the order if there is no purchase contract.

The bill subjects fuel dealers to additional penalties.

EFFECTIVE DATE: October 1, 2006

PROPANE DEALER REGISTRATION

The bill's requirements for propane dealer registration are the same as the law's requirements for home heating oil dealers. Applicants must apply annually and pay a \$100 registration fee. Registrants must show that they have general liability coverage and insurance to cover environmental damage due to propane gas leaks of at least \$1,000,000. They must state their registration number in their advertising. They must notify DCP of insurance renewal or coverage change; insurance companies are required to notify DCP if they cancel a dealer's insurance coverage. The bill provides that a dealer who sells both propane and home heating oil only needs to register once to engage in the sale of both products.

The law, beginning on October 1, 2001, requires home heating oil dealers to register with DCP as a dealer. The bill, effective on October 1 2006, amends this provision to require propane dealers to register. This could be construed to require propane dealers to register beginning on October 1, 2001, although this is unlikely.

Registered dealers that offer plumbing or heating work service must show that they subcontract with or employ properly licensed individuals and attest that all such work will be performed by such individuals.

The bill requires the DCP commissioner to keep a list of registered propane gas dealers as he does now for registered home heating oil dealers. The lists must be made available to wholesalers, who may only sell their products to registered dealers.

PROPANE DEALER SALES REQUIREMENTS

The bill prohibits propane gas dealers from entering into prepaid or capped price per unit contracts with consumers unless the dealers secure the contracts with either propane gas futures contracts or similar commitments that allow them to purchase at a fixed price at least 75% of the gas they commit to providing under all of their prepaid contracts or with a surety bond for at least 50% of the total amount they received from consumers under his prepaid contracts. The futures 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.

The bill requires a retail propane gas contract to be written and state in plain language (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 propane gas contracts from committing consumers to purchase gas for longer than 18 months. It requires contracts to provide that the contract price of undelivered heating oil owed on its end date must be reimbursed to

the consumer within 30 days of that date, unless the dealer and consumer agree otherwise.

ADDITIONAL PENALTIES

Under current law, the penalties for violating the fuel delivery law are the same as those for violating the weights and measures law. Violators are subject to a criminal penalty of imprisonment up to three months, a fine between \$50 and \$300, or both, for a first offense and imprisonment up to one year, a fine between \$100 and \$1,000, or both, for subsequent offenses. Violators are also subject to a civil penalty imposed by the DCP commissioner of up to \$100 for a first violation and up to \$500 for subsequent violations.

The bill also subjects violators to the penalties for violating the law on the operation of a fuel supply business, if appropriate. Possible penalties include subjecting someone who sells residential fuel oil or propane without conspicuously placing the unit price, total number of units sold, and delivery surcharge on the delivery ticket to a criminal penalty of a fine of up to \$100 for a first offense and up to \$500 for subsequent offenses (CGS § 16a-21).

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/09/2006)