



General Assembly

Amendment

February Session, 2008

LCO No. 6343

SB0027106343HDO

Offered by:

REP. STONE, 9th Dist.
REP. MAZUREK, 80th Dist.
SEN. CALIGIURI, 16th Dist.
SEN. HARTLEY, 15th Dist.
SEN. LEBEAU, 3rd Dist.
SEN. KANE, 32nd Dist.
REP. BERGER, 73rd Dist.
REP. D'AMELIO, 71st Dist.
REP. NOUJAIM, 74th Dist.
REP. ALDARONDO, 75th Dist.

REP. BUTLER, 72nd Dist.
REP. WILLIAMS, 68th Dist.
REP. TONG, 147th Dist.
REP. FOX, 146th Dist.
REP. SHAPIRO, 144th Dist.
REP. LEONE, 148th Dist.
REP. TRUGLIA, 145th Dist.
SEN. MCDONALD, 27th Dist.
REP. GREENE, 105th Dist.

To: Subst. Senate Bill No. 271

File No. 61

Cal. No. 418

(As Amended by Senate Amendment Schedule "A")

"AN ACT CONCERNING ADVERTISING BY OCCUPATIONAL LICENSE HOLDERS."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 16a-21 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2008*):

5 (a) No person, firm or corporation shall sell at retail fuel oil or
6 propane gas to be used for residential heating without a written

7 contract with the purchaser that contains all the terms and conditions
8 for delivery of such retail fuel oil or propane gas and the amount of
9 fees, charges or penalties, including tank removal and inspection fees,
10 minimum usage fees, liquidated damages and hazardous materials
11 fees assessed to the purchaser under such contract and without placing
12 the unit price, clearly indicated as such, the total number of units sold
13 and the amount of any delivery surcharge in a conspicuous place on
14 the delivery ticket given to the purchaser or an agent of the purchaser
15 at the time of delivery. No person, firm or corporation may bill or
16 otherwise attempt to collect from any purchaser of retail fuel oil or
17 propane gas an amount which exceeds the unit price multiplied by the
18 total number of units stated on the delivery ticket, plus the amount of
19 any delivery surcharge stated on the ticket. For the purpose of this
20 section, unit price means the price per gallon computed to the nearest
21 tenth of a whole cent. Any written contract required by this section
22 shall be in plain language pursuant to section 42-152 and any fee,
23 charge or penalty disclosed in such contract shall be in twelve-point,
24 boldface type of uniform font. The requirement that any contract be in
25 writing as set forth in this section may be satisfied pursuant to the
26 provisions of (1) the Connecticut Uniform Electronic Transactions Act,
27 sections 1-266 to 1-286, inclusive, (2) sections 42a-7-101 to 42a-7-106,
28 inclusive, and (3) the Electronic Signatures in Global and National
29 Commerce Act, 15 USC 7001 et seq. Except as provided in subsection
30 (e) of this section, verbal telephonic communications shall not satisfy
31 the writing requirement of this section. The requirement that any
32 contract be in writing as set forth in this section shall not apply to any
33 retail fuel oil or propane gas contract where no fee, charge or penalty is
34 assessed, except for the unit price of the retail fuel oil or propane gas
35 delivered to a purchaser and any surcharge authorized under section
36 16a-22b, as amended by this act. No contract for the delivery of retail
37 fuel oil or propane gas under this section shall include a provision for
38 liquidated damages for a purchaser breach of such contract where the
39 liquidated damages exceeds the actual damages to the retail fuel oil or
40 propane gas retailer caused by such breach.

41 (b) Any person, firm or corporation who violates subsection (a) of
42 this section shall be fined not more than one hundred dollars for the
43 first offense nor more than five hundred dollars for each subsequent
44 offense.

45 (c) The provisions of this section shall not apply to any existing
46 purchaser of a person, firm or corporation selling retail fuel oil or
47 propane gas on October 1, 2008, who has a valid written contract on
48 said date.

49 (d) The provisions of this section shall not apply to customers of a
50 person, firm or corporation selling retail fuel oil or propane gas as of
51 October 1, 2008, who do not have valid written contracts, provided the
52 customer has the right to discontinue delivery service at any time and
53 shall not be subject to any additional cost or fee of any kind including,
54 but not limited to, equipment removal fee, labor charge, restocking
55 penalty, tank evacuation or any other assessment that would result in
56 any additional cost to the consumer for discontinuing delivery service
57 and shall receive a full refund for any fuel oil or propane gas in a
58 company owned tank that was removed at the time of said
59 discontinuance of service at the retail price charged to the customer. A
60 person, firm or corporation selling retail fuel oil or propane gas may
61 not assess such customers any new fees or increases of existing fees for
62 a period of sixty days from the date first billed if the customer notifies
63 the company of said customer's intent to discontinue delivery service
64 within the sixty-day period.

65 (e) Not later than October 15, 2008, a fuel oil and propane gas retail
66 dealer shall provide written notice to all customers of such retail dealer
67 as of October 1, 2008, who do not have valid written contracts and who
68 are subject to any fees informing said customer of (1) the amount of
69 such fees and a description of the fee; (2) the right to discontinue
70 delivery services without penalty; and (3) the right to dispute any new
71 fees that are not contained in such notice or increases in the amount of
72 fees contained in such notice for a period of sixty days from the date
73 such fees were billed if the customer has notified the company of the

74 intent to discontinue delivery service within the sixty-day period.

75 (f) The requirement that any contract be in writing pursuant to this
76 section and section 16a-23n may be satisfied telephonically by a
77 person, firm or corporation selling at retail fuel oil or propane gas, only
78 if: (1) Such telephonic communications are preceded by the purchaser
79 having received all terms and conditions of the contract in writing,
80 except for the contract duration, the unit price and the maximum
81 number of units covered by the contract, if any, in advance of such
82 telephonic communications between such purchaser and the person,
83 firm or corporation selling at retail fuel oil or propane gas; (2) the
84 person, firm or corporation selling at retail fuel oil or propane gas
85 employs an interactive voice response system or similar technology
86 which provides the purchaser with the contract duration, the unit price
87 and the maximum number of units covered by the contract, if any, to
88 complete the contract; (3) the person, firm or corporation selling at
89 retail fuel oil or propane gas retains, in a readily retrievable format, a
90 recording of the purchaser agreeing to each such term and condition
91 for the period of the contract plus one year; (4) the person, firm or
92 corporation selling at retail fuel oil or propane gas sends such
93 purchaser a letter confirming the agreement to such terms and
94 conditions with the written stipulation that the purchaser is bound by
95 such terms and conditions unless the agreement is rescinded by such
96 purchaser, in writing, within three business days of receipt of said
97 letter by such purchaser; and (5) the person, firm or corporation selling
98 at retail fuel oil or propane gas retains a copy of each such letter.

99 (g) A violation of the provisions of this section constitutes an unfair
100 trade practice under subsection (a) of section 42-110b.

101 Sec. 502. Section 16a-22b of the general statutes is repealed and the
102 following is substituted in lieu thereof (*Effective July 1, 2008*):

103 (a) No retail dealer of fuel oil or propane shall assess a surcharge on
104 the price of fuel oil or propane delivered to a customer if the delivery
105 of the fuel oil or propane is in an amount in excess of one hundred

106 twenty-five gallons, except that a surcharge may be assessed if a
107 delivery is made outside the normal service area or the normal
108 business hours of the dealer or extraordinary labor costs are involved
109 in making a delivery. Any other fee, charge or penalty shall be
110 assessed in accordance with the provisions of section 16a-21, as
111 amended by this act.

112 (b) No retail dealer of fuel oil or propane shall assess a residential
113 customer a minimum delivery surcharge on any delivery initiated by
114 the seller, including any delivery under an automatic delivery
115 agreement.

116 (c) A violation of the provisions of this section constitutes an unfair
117 trade practice under subsection (a) of section 42-110b.

118 Sec. 503. Section 42-234 of the general statutes is repealed and the
119 following is substituted in lieu thereof (*Effective from passage*):

120 (a) As used in this section:

121 (1) "Energy resource" shall include, but not be limited to, middle
122 distillate, residual fuel oil, motor gasoline, propane, aviation gasoline
123 and aviation turbine fuel, natural gas, electricity, coal and coal
124 products, wood fuels and any other resource yielding energy;

125 (2) "Seller" shall include, but not be limited to, a supplier,
126 wholesaler, distributor or retailer involved in the sale or distribution in
127 this state of an energy resource;

128 [(3) "Abnormal market disruption" refers to any stress to an energy
129 resource market resulting from weather conditions, acts of nature,
130 failure or shortage of a source of energy, strike, civil disorder, war,
131 national or local emergency, oil spill or other extraordinary adverse
132 circumstance.]

133 (3) "Additional costs" means all replacement and transportation
134 costs and taxes incurred by a person within the chain of distribution;

135 (4) "Gross disparity" means an increase of more than fifteen per cent
136 in the price of an energy resource;

137 (5) "Unconscionably excessive" means a price that represents a gross
138 disparity between the price of an energy resource when compared to
139 the highest price such energy resource was sold or offered for sale by
140 the seller in the usual course of business during the seven days
141 immediately prior to the declaration by the Governor of an energy
142 resource market disruption emergency pursuant to subsection (e) of
143 this section.

144 (b) No seller during any [period of abnormal market disruption]
145 energy resource market disruption emergency declared by the
146 Governor pursuant to subsection (e) of this section, or during any
147 period in which [an imminent abnormal market disruption] such
148 emergency is reasonably anticipated shall sell or offer to sell an energy
149 resource for an amount that represents an unconscionably excessive
150 price.

151 (c) Evidence that (1) the amount charged represents a gross
152 disparity between the price of an energy resource that was the subject
153 of the transaction and the price at which such energy resource was
154 sold or offered for sale by the seller in the usual course of business
155 immediately prior to [(A) the onset of an abnormal market disruption,
156 or (B)] an energy resource market disruption emergency declared by
157 the Governor pursuant to subsection (e) of this section or any period in
158 which [an imminent abnormal market disruption] such emergency is
159 reasonably anticipated, and (2) the amount charged by the seller was
160 not attributable to additional costs incurred by the seller in connection
161 with the sale of such product, shall constitute prima facie evidence that
162 a price is unconscionably excessive.

163 (d) This section shall not be construed to limit the ability of the
164 Commissioner of Consumer Protection or the courts to establish
165 certain acts or practices as unfair or unconscionable in the absence of
166 [abnormal market disruptions] an energy resource market disruption

167 emergency declared by the Governor pursuant to subsection (e) of this
168 section.

169 (e) In the event of a state-wide or regional shortage or threatened
170 shortage of an energy resource due to an abnormal market disruption
171 resulting from a natural disaster, weather conditions, acts of nature,
172 strike, civil disorder, war, national or local emergency or other
173 extraordinary adverse circumstance, the Governor may proclaim that
174 an energy resource market disruption emergency exists. Upon the
175 declaration of such emergency, the Governor may, in connection
176 therewith, issue orders designating an energy resource to be in short
177 supply or in danger of becoming in short supply in the state or in a
178 specific region of the state. Prior to the issuance of such an order, the
179 Governor shall make written findings that there is an abnormal market
180 disruption, that the energy resource is in short supply or is in danger
181 of becoming in short supply due to such disruption, that the energy
182 resource is essential to the health, safety and welfare of the people of
183 the state, and that the imposition of price restrictions on the energy
184 resource or rationing of such resource is necessary to assure the health,
185 safety and welfare of the people of the state.

186 (f) Any proclamation or order issued pursuant to this section shall
187 become effective upon its filing in the office of the Secretary of the
188 State and with the clerks of the Senate and the House of
189 Representatives. Such proclamation or order shall be published in full
190 at least once in a newspaper having general circulation in each county,
191 provided failure to publish shall not impair the validity of such
192 proclamation or order. Unless disapproved in accordance with the
193 provisions of subsection (g) of this section, any proclamation or order
194 shall remain in effect until the Governor proclaims an end to the
195 emergency or until ninety days after the date of the proclamation of
196 the emergency, whichever occurs first.

197 (g) Any proclamation or order issued pursuant to this section may
198 be disapproved by a majority vote of each house of the General
199 Assembly. Any such disapproval shall become effective upon filing

200 notice of such action with the office of the Secretary of the State.

201 (h) Any natural person, trade association, corporation or other
202 entity may register with the Commissioner of Consumer Protection as
203 an agent for the purpose of being notified by said commissioner or
204 said commissioner's agent in the event the Governor declares an
205 energy resource market disruption emergency pursuant to subsection
206 (e) of this section. Such natural person, trade association, corporation
207 or other entity shall be notified of such emergency by said
208 commissioner or said commissioner's agent in an expeditious manner
209 when the Governor declares an energy resource market disruption
210 emergency.

211 (i) A violation of the provisions of subsection (b) of this section shall
212 be deemed an unfair or deceptive trade act or practice under
213 subsection (a) of section 42-110b.

214 Sec. 504. Subsection (c) of section 42-133ff of the general statutes is
215 repealed and the following is substituted in lieu thereof (*Effective*
216 *October 1, 2008*):

217 (c) Nothing in this section shall prohibit any seller from offering a
218 discount to a buyer to induce such buyer to pay by cash, debit card,
219 check or similar means rather than by credit card. No person, firm or
220 entity shall prohibit a gasoline retailer or distributor from offering a
221 discount to a buyer based upon the method of payment by such buyer
222 for such gasoline. A violation of this subsection shall be deemed an
223 unfair or deceptive trade practice under subsection (a) of section 42-
224 110b.

225 Sec. 505. Section 52-512 of the general statutes is repealed and the
226 following is substituted in lieu thereof (*Effective from passage*):

227 (a) Every debt due to any laborer or mechanic for personal wages,
228 from any corporation or partnership for which a receiver is appointed,
229 for any labor performed for such corporation or partnership within
230 three months next preceding the service of the application for the

231 appointment of a receiver, shall be paid in full by the receiver, to the
232 amount of six hundred dollars, before the general liabilities of such
233 corporation or partnership are paid.

234 (b) Every debt due to any individual from a corporation or
235 partnership for which a receiver is appointed for a deposit made in
236 connection with the purchase, lease or rental of goods or the purchase
237 of services for the personal, family or household use of such
238 individual, where such goods were not received or such services were
239 not provided prior to the service of the application for the appointment
240 of a receiver, shall be paid in full by the receiver, to the amount [of
241 nine hundred dollars] allowed for certain consumer deposits pursuant
242 to subdivision (7) of subsection (a) of 11 USC Section 507, as amended
243 and adjusted from time to time pursuant to 11 USC Section 104, as
244 amended from time to time, before [the general liabilities] any other
245 creditor, except taxes or wages, of the corporation or partnership [are]
246 is paid. As used in this section, "deposit in connection with the
247 purchase, lease or rental of goods" includes, but is not limited to,
248 payments made by a consumer to a home heating oil or propane gas
249 dealer pursuant to a prepaid home heating oil or propane gas contract
250 or capped price per gallon home heating oil contract.

251 Sec. 506. Section 52-400f of the general statutes is repealed and the
252 following is substituted in lieu thereof (*Effective from passage*):

253 In the event of (1) the termination of the existence of an entity, (2)
254 the insolvency of a person or entity, or (3) the inability of a person or
255 entity to pay all creditors in full, every debt due to any individual from
256 such person or entity for a deposit made in connection with the
257 purchase, lease or rental of goods or the purchase of services for the
258 personal, family or household use of such individual, where such
259 goods were not received or such services were not provided, shall be
260 first paid in full, to the amount [of nine hundred dollars] allowed for
261 certain consumer deposits pursuant to subdivision (7) of subsection (a)
262 of 11 USC Section 507, as amended and adjusted from time to time
263 pursuant to 11 USC Section 104, as amended from time to time, before

264 [the general liabilities] any other creditor, except taxes or wages, of
265 such person or entity [are] is paid. As used in this section, "deposit
266 made in connection with the purchase, lease or rental of goods"
267 includes, but is not limited to, payments made by a consumer to a
268 home heating oil or propane gas dealer pursuant to a prepaid home
269 heating oil or propane gas contract or capped price per gallon home
270 heating oil contract.

271 Sec. 507. (NEW) (*Effective from passage*) Any person who has applied
272 for and been issued a Connecticut Operating Stationary Engineer type
273 OE-2 license not later than January 1, 2009, from the Department of
274 Consumer Protection shall be exempt from the heating system and air
275 conditioning or refrigeration system on-site operational provisions of
276 subdivision (5) of section 20-330 of the general statutes.

277 Sec. 508. Subsections (a) and (b) of section 25-129 of the 2008
278 supplement to the general statutes are repealed and the following is
279 substituted in lieu thereof (*Effective January 1, 2009*):

280 (a) The Commissioner of Consumer Protection, with the advice and
281 assistance of the board, shall establish the requirements of registration
282 for well drilling contractors. Each person, before engaging in the
283 business of well drilling or pump installing, shall obtain [annually]
284 biennially from the Department of Consumer Protection a certificate of
285 registration as a well drilling contractor, using an application [blank]
286 form prepared by said department. Each application for issuance or
287 renewal of a certificate of registration shall be accompanied by a
288 certificate of liability coverage for bodily injury of at least one hundred
289 thousand dollars per person with an aggregate of at least three
290 hundred thousand dollars and for property damage of at least fifty
291 thousand dollars per accident with an aggregate of at least one
292 hundred thousand dollars. [The applicant shall pay a registration]
293 Each application shall be accompanied by a fee of [forty-four dollars
294 with the application] eighty-eight dollars and [an annual] each biennial
295 renewal [registration] shall be accompanied by a fee of [one hundred
296 twenty-five dollars for renewals on and after April 1, 1984] two

297 hundred fifty dollars. A certificate of registration is not transferable
298 and expires [annually] biennially. [A lost, destroyed or mutilated
299 registration certificate may be replaced by a duplicate upon payment
300 of a lost fee of three dollars. One seal shall be issued to each registrant
301 as provided in subsection (b) of this section. Additional seals may be
302 obtained at a fee of three dollars each.]

303 (b) [A] For each well drilling machine owned, leased or operated by
304 a well drilling contractor, such contractor shall place in a conspicuous
305 location on both sides of [his] the well drilling machine [his] such
306 contractor's registration number in letters not less than two inches
307 high. [A seal furnished by said department designating the year the
308 certificate of registration was issued or renewed and the words
309 "Connecticut registered well drilling contractor" shall be affixed
310 directly adjacent to the registration number.]

311 Sec. 509. Section 25-130 of the general statutes is repealed and the
312 following is substituted in lieu thereof (*Effective January 1, 2009*):

313 Before commencing work on any water-supply well, the registered
314 well driller shall apply to the [board] department for a permit to drill
315 such well. [A fee of five dollars shall accompany such application.] The
316 department may impose a fee of five dollars for each such permit form
317 and may issue permits in an electronic format. If the water-supply well
318 conforms to the Well Drilling Code, as from time to time amended, the
319 [board] department shall issue such permit which shall contain the
320 name and address of the well driller, the date of issuance and the
321 specific location of the well. The driller shall then submit the permit
322 with a fee to be determined by the legislative body of a town, city or
323 borough or the board of a district department of health, as the case
324 may be, to the local director of health or [his] such director's agent,
325 who shall sign such permit if said proposed water-supply well
326 conforms to the Public Health Code. No water-supply well shall be
327 drilled until such a permit is issued and countersigned and until the
328 driller has informed his or her client, in writing, that well drilling is
329 subject to regulation by the Department of Consumer Protection and

330 that complaints may be directed to that department."