



Senate

General Assembly

File No. 42

January Session, 2009

Substitute Senate Bill No. 779

Senate, March 9, 2009

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 PROVIDING CONSUMER PROTECTIONS TO PURCHASERS OF OUTDOOR WOOD-BURNING FURNACES.

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

1 Section 1. (NEW) (*Effective October 1, 2009*) (a) As used in this
2 section:

3 (1) "Business day" means any day except a Sunday or a legal
4 holiday.

5 (2) "Buyer" means a person who enters into, or receives the benefit
6 of, a contract for an outdoor wood-burning furnace.

7 (3) "Outdoor wood-burning furnace" means an accessory structure
8 or appliance designed to be located outside living space ordinarily
9 used for human habitation, and designed to transfer or provide heat,
10 via liquid or other means, through the burning of wood to heat (A)
11 spaces other than where such structure or appliance is located, (B) any
12 other structure or appliance on the premises, or (C) domestic,

13 swimming pool, hot tub or jacuzzi water. "Outdoor wood-burning
14 furnace" does not include a fire pit, wood-fired barbecue or chiminea.

15 (4) "Seller" means a person who sells outdoor wood-burning
16 furnaces.

17 (b) Every contract for an outdoor wood-burning furnace shall
18 provide that such contract may be cancelled not later than three
19 business days after the date of receipt by the buyer of a copy of the
20 contract, by written notice delivered by certified or registered United
21 States mail to the seller or the seller's agent, at an address which shall
22 be specified in the contract. Cancellation shall be without liability on
23 the part of the buyer, except for the fair market value of services
24 actually received by the buyer, and the buyer shall be entitled to a
25 refund of the entire consideration paid for the contract, if any, less the
26 fair market value of the services already actually received by the
27 buyer. Such right of cancellation shall not be affected by the terms of
28 the contract and may not be waived or otherwise surrendered.

29 (c) A copy of the contract shall be delivered to the buyer at the time
30 the contract is signed. All contracts shall be in writing and signed by
31 the buyer, shall designate the date on which the buyer actually signs
32 the contract, shall identify the address of the location at which the
33 buyer entered into the contract and shall contain a statement of the
34 buyer's rights which complies with this subsection. The statement
35 shall: (1) Appear in the contract under the conspicuous caption:
36 "BUYER'S RIGHT TO CANCEL", and (2) read as follows:

37 "If you wish to cancel this contract, you may cancel by mailing a
38 written notice by certified or registered mail to the address specified
39 below. The notice must say that you do not wish to be bound by this
40 contract and must be delivered or mailed before midnight of the third
41 business day after you sign this contract. The notice must be delivered
42 or mailed to: (Insert name and mailing address for cancellation
43 notice)."

44 (d) At the time the contract is signed, the seller shall provide an

45 informational sheet to the buyer, developed by the Commissioner of
46 Consumer Protection, in consultation with the Commissioner of
47 Environmental Protection, on outdoor wood-burning furnaces. The
48 seller shall obtain the buyer's acknowledgement of receipt, including
49 date of receipt, of such informational sheet on a form prescribed by the
50 Commissioner of Consumer Protection. The seller shall keep such
51 signed acknowledgement for a period of two years from the date a
52 contract for an outdoor wood-burning furnace is signed and shall
53 make such signed acknowledgement available for inspection by a
54 representative of the Department of Consumer Protection upon
55 request.

56 (e) If a seller materially violates the provisions of this section, the
57 buyer of an outdoor wood-burning furnace shall have the right to
58 cancel the contract and a right of action against the seller for recovery
59 of three times the amount actually paid to the seller under the contract.
60 In addition to any judgment awarded to the buyer, the court may
61 allow reasonable attorney's fees.

62 (f) A violation of this section shall be deemed an unfair or deceptive
63 trade practice under subsection (a) of section 42-110b of the general
64 statutes.

65 (g) Any person who violates any provision of this section shall be
66 deemed to have committed an infraction and shall be fined not more
67 than ninety dollars. Each day a violation occurs shall be a separate
68 violation.

69 (h) The provisions of this section shall be enforced by the
70 Commissioner of Consumer Protection.

71 (i) Nothing in this section shall be construed to affect any power or
72 authority of the Commissioner of Environmental Protection to enforce
73 any statute or regulation that may be applicable to wood-burning
74 furnaces or to the emissions from such furnaces.

Statement of Legislative Commissioners:

In the second line of section (d) "to the buyer" was added for clarity. Section 2 and 3 designations were removed and subsection designations and references were changed accordingly for clarity.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	New section

GL *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sSB 779*****AN ACT PROVIDING CONSUMER PROTECTIONS TO PURCHASERS OF OUTDOOR WOOD-BURNING FURNACES.*****SUMMARY:**

This bill allows buyers of outdoor wood-burning furnaces to cancel their contract in two circumstances, despite any contractual terms or waivers to the contrary. It creates new requirements for sellers of outdoor wood-burning furnaces. It also provides a right of action against the seller for violation of the bill. A violation is an unfair trade practice and subject to the appropriate civil proceedings under the Connecticut Unfair Trade Practices Act (CUTPA).

The bill defines outdoor wood-burning furnaces as outdoor accessory structures that burn wood to transfer heat to other spaces or structures, including swimming pools, hot tubs, and Jacuzzis, but do not include fire pits, barbecues, or chimineas.

The bill does not affect the power of the commissioner of environmental protection to enforce statutes or regulations relating to wood-burning furnaces or emissions from them.

EFFECTIVE DATE: October 1, 2009

CANCELLATION

The bill contains two means of cancelling the purchase of an outdoor wood-burning furnace. First, the buyer may cancel the contract within three business days of purchase. To exercise this right, the buyer must send the seller or the seller's agent notice through certified or registered mail. The bill entitles the buyer to a full refund, minus the fair market value for any services received. The right of cancellation may not be waived or affected by the contract terms.

Second, the bill grants the buyer the right to cancel the contract if the seller materially violates the procedures outlined below. The bill does not specify how the buyer notifies the seller of the contract cancellation, nor does it give a time frame for when the buyer may cancel under this provision. If a seller materially violates the procedures, the buyer also has a right of action against the seller for up to three times the amount actually paid under the contract, as well as reasonable attorney's fees.

CONTRACT REQUIREMENTS

The bill creates new contract procedures, including requiring the seller to provide the buyer with a copy of the contract for outdoor wood-burning furnaces at the time of purchase. The contract must:

1. contain a statement conspicuously captioned "BUYER'S RIGHT TO CANCEL" informing the buyer of the right to cancellation and the cancellation procedure;
2. provide the seller's name and address to which the buyer may send a notice of cancellation through certified or registered mail;
3. be in writing and signed by the buyer;
4. be dated according to when the buyer signed the contract; and
5. identify the address where the contract was signed.

The bill also requires the seller to provide the buyer with an informational sheet about outdoor wood-burning furnaces developed by the consumer protection commissioner in consultation with the environmental protection commissioner. Upon receipt of this sheet, the buyer must sign and date an acknowledgement form, also prescribed by the environmental protection commissioner. The seller is required to keep and make available for inspection by the Department of Consumer Protection the signed acknowledgement for two years from the date of contract.

BACKGROUND

CUTPA

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to sue. Courts may issue restraining orders, award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for each willful violation and \$25,000 for violation of a restraining order.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 19 Nay 0 (02/19/2009)