



March 6, 2012

Co-Chair Paul R. Doyle
Co-Chair Joseph J. Taborsak
Senator Kevin D. Witkos
Representative Rosa C. Rebimbas

General Law Committee:

I am submitting testimony on S.B. 207, AN ACT CONCERNING RESIDENTIAL RETAIL HEATING OIL AND PROPANE CONTRACTS.

The Independent Connecticut Petroleum Association (ICPA) represents over 576 independently owned and operated heating oil dealers, motor fuels marketers and their associated business in Connecticut. ICPA members employ over 13,000 people in our state and provide our fellow citizens with heating oil and motor fuels.

Our heating fuel retailers distribute heating oil to 650,000 consumers in our state, and it is for that reason that we appear today in support of parts of this legislation as presented, opposed to one part, and recommending adding a new section for your consideration.

The original statute we are proposing to amend today came about through a collaborative effort involving our association, the Department of Consumer Protection (DCP) and the Office of the Attorney General. The heating oil dealer registration law of eleven years ago, and its subsequent amendments, has succeeded in strengthening consumer protection and raising the level of corporate responsibility and behavior in our marketplace. Our law has become the model for laws recently passed in Vermont, Maine and other states in the northeast.

First, we are opposed to Section 2 of the bill amending Section 16a-21 of the General Statutes by adding a new subsection (a) (1) that requires every consumer buying heating oil, unless a purchase initiated by the consumer, to have a written contract. This would mean that each and every one of the 600 heating oil retailers in Connecticut would have to establish a written contract with as many as 400,000 consumers for nothing more complicated than their existing automatic delivery service. This is not only an unconscionable burden to bear for both consumers as well as retailers, it is unnecessary.

We are aware of a small number of retailers engaged in anti-consumer behavior in topping off consumer's tanks when the consumer has notified the retailer that the consumer is moving to another retailer - or when a retailer refuses to accept notice of a consumer leaving the retailer that comes from another retailer. Let's not be confused, as these two practices do not merit generating a lawyer's full employment act by requiring the generation of 400,000 contracts every year.

We are recommending language (attached) that will standardize, in law, what constitutes the termination of automatic delivery service and what notice needs to be given in order to effectuate the orderly termination of service. This addresses the specific issue the DCP and consumers face and does it without requiring 400,000 new contracts.

We are further recommend amending Section 5 of the bill, which amends Section 16a-23m of the General Statutes by including a new education prerequisite for all heating fuel dealers seeking both new and renewal applications for registrations with the DCP.

Our industry and the DCP have worked well together for the past ten years as we have strengthened important consumer protections, contract requirements for fixed and capped plan agreements, as well as a host of licensing laws under the heating, ventilation, air conditioning, electrical and plumbing trades.

We strongly believe that everyone who owns and operates a heating fuel business needs to evidence continuing education across several critically important fields in order to successfully comply with laws and regulations as well as to serve the public professionally and raise our professional standards.

The requirements we recommend may be delivered by or taken in any educational institution certified by the Connecticut Department of Higher Education. All a heating fuel dealer would need to do is take a minimal number of courses prior to a new registration and as few as 20 hours of training prior to a registration renewal. This would be a simple certification on the registration form provided by DCP.

I appreciate the opportunity to be with you today to testify on S.B. 207, AN ACT CONCERNING RESIDENTIAL RETAIL HEATING OIL AND PROPANE CONTRACTS, and would be pleased to answer any questions you have. We look forward to working with you and the Department of Consumer Protection on this legislation as it evolves.

Respectfully,



Christian A. Herb
Vice President

AN ACT CONCERNING RESIDENTIAL HEATING OIL AND PROPANE CONTRACTS.

Section 1. Section 16a-17 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) As used in sections 16a-17 to 16a-20, inclusive:

(1) "Fuel" includes electricity, natural gas, petroleum products, coal and coal products, wood fuels, radioactive materials and any other resource yielding energy;

(2) "Creating a fuel shortage" means the diminution by contrivance or artificial means of the supply of fuel to a point below that needed to meet consumer demands adequately.

(b) As used in sections 16a-21, as amended by this act, 16a-22a, as amended by this act, and 16a-22k, as amended by this act:

(1) "Associated equipment" means a gas regulator, gas line, sacrificial anode, interconnecting hardware and such other equipment necessary for the installation and operation of a propane tank;

(2) "Cash" means legal tender, a certified or cashier's check, commercial money order or equivalent of such legal tender, check or money order. Cash also includes a guaranteed payment on behalf of a consumer by a government or community action agency, provided no discount is taken for the charge as billed;

(3) "Commissioner" means the Commissioner of Consumer Protection;

(4) "Consumer" means a direct purchaser of heating fuel from a heating fuel dealer, when such fuel is the primary source of heat for residential heating or domestic hot water to one or more dwelling units within a structure having not more than four dwelling units;

(5) "Gallon" means an accepted unit of measure consisting of two hundred thirty-one cubic inches, for all liquid or gaseous heating fuel, subject to modifications allowed under regulations adopted pursuant to section 43-42;

(6) "Heating fuel" means any petroleum based fuel used as the primary source of residential heating or domestic hot water, including petroleum products regulated pursuant to chapter 250;

(7) "Heating fuel dealer" or "dealer" means any individual or group of individuals, a firm, partnership, corporation, cooperative or limited liability company that offers the retail sale of heating fuel to a consumer;

(8) "Lessee" means a natural person who rents or leases personal property under a consumer rental or lease agreement; and

(9) "Lessor" means a heating fuel dealer who regularly provides the use of personal property through consumer rental or lease agreements and to whom rent is paid at a fixed interval for the use of such property.

(10) "Automatic delivery" means the system calculating the heating fuel needs of a consumer by the dealer and of delivering heating fuel to the consumer, as determined by the dealer, based on the consumption of heating fuel by the consumer.

(11) "Notice of Termination of Automatic delivery" means the notice by the consumer to the dealer providing automatic delivery service expressing the request of the consumer to terminate automatic delivery service by the dealer.

Sec. 2. Section 16a-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

[(a) No person, firm or corporation shall sell at retail fuel oil or propane gas to be used for residential heating without placing the unit price, clearly indicated as such, the total number of units sold and the amount of any delivery surcharge in a conspicuous place on the delivery ticket given to the purchaser or an agent of the purchaser at the time of delivery. No person, firm or corporation may bill or otherwise attempt to collect from any purchaser of fuel oil or propane gas an amount which exceeds the unit price multiplied by the total number of units stated on the delivery ticket, plus the amount of any delivery surcharge stated on the ticket. For the purpose of this section, unit price means the price per gallon computed to the nearest tenth of a whole cent.]

(a) (1) No heating fuel dealer shall sell heating fuel or rent or lease a heating fuel tank without a written contract that contains all the terms and conditions for delivery of such heating fuel and the amount of fees, charges, surcharges or penalties allowed under this section and assessed to the consumer under such contract. No such contract shall contain any fees, charges, surcharges or penalties, except for tank rental fees or liquidated damages for violation of the contract terms. No contract for the delivery of heating fuel under this subsection shall include a provision for liquidated damages for a consumer breach of such contract where the liquidated damages exceed the actual damages to the heating fuel dealer caused by such breach. No written contract period for heating fuel shall be for a term greater than eighteen months.

(i) Automatic delivery agreements between consumers and dealers are not required to have a written contract governed by this subsection except with regard to the requirement of all dealers to notify consumers of the requirement to provide notice for the termination of automatic delivery service as provided in this subsection.

(ii) Dealers providing automatic delivery service are required to notify the consumers they serve under automatic delivery agreements of the requirement to provide

written notice of the consumer's request for the termination of service. The written notice from consumers to dealers requesting termination of automatic delivery service may be delivered to the dealer by; written request by the consumer delivered by certified mail to the dealer, or electronic mail from the consumer to a valid electronic mail address of the dealer, or electronic facsimile transmitting a written request by the consumer to terminate service sent to a valid facsimile number at the dealer's place of business. The notice must give 24 hours notice of the request to terminate automatic delivery service and the consumer shall not be responsible for the payment of deliveries made by the dealer after the confirmation of the receipt of the notice of termination is received by the consumer.

Sec. 5. Section 16a-23m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(f) Effective October 1, 2013, on forms prescribed by the commissioner, each heating fuel dealer seeking a new certification of registration with the Department of Consumer Protection shall certify that the dealer has completed forty hours of training at an institution certified by the Connecticut Department of Higher Education. The forty hours must include training in anti-trust law, business ethics, licenses, finance, capitalization, futures and hedging, contracts law, state and federal taxes. Each heating fuel dealer seeking a renewal certification of registration with the Department of Consumer Protection shall certify that the dealer has completed twenty hours of training at an institution certified by the Connecticut Department of Higher Education. The twenty hours must include training in any of the following topic areas; anti-trust law, business ethics, licenses, finance, capitalization, futures and hedging, contracts law, state and federal taxes, energy conservation technology, management, human resources, transportation regulations, heating fuels storage technology.

