



**Substitute Senate Bill No. 299**

**Public Act No. 14-51**

**AN ACT CONCERNING HEATING FUEL DELIVERY FEES,  
CHARGES AND SURCHARGES AND PREPAID GUARANTEED  
HEATING FUEL PRICE PLANS.**

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

Section 1. Subsection (g) of section 16a-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2014*):

(g) No heating fuel dealer shall assess a fee, charge or surcharge on the price per gallon or total delivery charge for any heating fuel delivery initiated by a consumer, except when:

(1) The heating fuel delivery is [not more] less than one hundred gallons;

(2) The heating fuel delivery is made outside the normal service area of the dealer;

(3) The heating fuel delivery is made outside the normal business hours of the dealer; or

(4) The dealer incurs extraordinary labor costs for the heating fuel delivery.

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Sec. 2. Section 16a-23m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2014*):

(a) As used in this section, ~~[and]~~ sections 16a-23n to ~~[16a-23r,]~~ 16a-23s, inclusive, as amended by this act, and section 7 of this act:

(1) "Budget plan" means a type of contract offering heating fuel, that may be paid for in advance, on or after delivery and is paid for in not less than three installment payments over a period of one hundred twenty days or more, provided the amount required to be paid as the first payment is not greater than fifty per cent of the remaining amount due under the plan;

~~[(1)]~~ (2) "Capped price plan" means an agreement where the cost to the consumer of heating fuel shall not increase above a specified price per gallon and the consumer shall pay less than the specified price under circumstances specified in such contract;

~~[(2)]~~ (3) "Commissioner" means the Commissioner of Consumer Protection;

~~[(3)]~~ (4) "Consumer" means a direct purchaser of heating fuel from a heating fuel dealer, when such fuel is the primary source of heating fuel for residential heating or domestic hot water to one or more dwelling units within a structure having not more than four dwelling units;

~~[(4)]~~ (5) "Forwards contract" means an agreement between two parties to buy or sell an asset at a certain future time for a certain price;

~~[(5)]~~ (6) "Futures contract" means a standardized, transferable, exchange-traded agreement that requires delivery of heating fuel at a specified price on a specified future date;

~~[(6)]~~ (7) "Gallon" means an accepted unit of measure consisting of

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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;

[(7)] (8) "Guaranteed price plan", also known as "guaranteed plan", "fixed price", ["buy ahead", "prebuy", "prebought", "prepaid",] "full price", "lock in", "capped", "price cap", or other similar terminology, when used to describe a contract, means a type of contract that is not paid in advance of delivery, offering heating fuel at a guaranteed future price or at a maximum future price;

[(8)] (9) "Heating fuel" means any petroleum-based fuel used as a primary source of residential heating or domestic hot water, including petroleum products regulated pursuant to chapter 250;

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

[(10)] (11) "Heating oil" means a predominantly liquefied petroleum product at ambient temperatures, that is sold as a commodity and is a primary source of residential heating or domestic hot water, including products known as #2 oil (heating oil), #1 oil (kerosene), #4 oil, bio fuels, or any bio fuel blended with conventionally refined fossil fuel commodities and that meets the requirements of the American Society for Testing and Materials Standard D396, as amended from time to time;

[(11)] (12) "Maintain" means retention of the balance, measured in gallons or other accepted units of measure, of heating fuel that remains to be delivered to consumers who are party to a guaranteed price plan contract;

[(12)] (13) "Physical supply contract" means an agreement for wet

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barrels or gallons of heating fuel that has been secured by a heating fuel dealer;

(14) "Prepaid guaranteed price plan", also known as "buy ahead", "prebuy", "prebought" or other similar terminology, when used to describe a contract, means a type of contract offering heating fuel at a guaranteed price, paid for in advance of delivery, but does not include a budget plan;

[(13)] (15) "Propane" or "liquefied petroleum gas (LPG)" means a petroleum product that meets ASTM specification D1835, as amended from time to time, and is composed predominantly of any of the following hydrocarbons or mixtures thereof: Propane, propylene, butanes (normal butane or isobutane), and butylenes and is intended for use, among other things, as a fuel for residential heating; and

[(14)] (16) "Surety bond" means a bond issued by a licensed insurance company or banking institution as surety for a dealer obligating the surety to the commissioner in a sum certain in guaranty of the full and faithful performance by the dealer of prepaid guaranteed price plan contracts entered into pursuant to this chapter.

(b) No heating fuel dealer shall engage in the sale of heating fuel without a certificate of registration as a heating fuel dealer issued pursuant to this section. No federally established heating assistance agency shall be required to register. Only one registration shall be required of a dealer to engage in both the retail sale of heating oil and propane. A separate certificate of registration is required for each name that a heating fuel dealer does business as or advertises.

(c) Each person, firm or corporation seeking registration as a heating fuel dealer shall apply annually for a certificate of registration with the Department of Consumer Protection on forms prescribed by the commissioner. Each heating fuel dealer shall disclose on such forms all

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affiliated companies registered with the department that are under common ownership or have interlocking boards of directors. Each applicant shall pay a registration fee of two hundred dollars. The commissioner shall require all applicants for registration as a heating fuel dealer to provide evidence of general liability insurance coverage and insurance to cover any potential environmental damage due to heating fuel spills or leaks caused by such applicant as a registered dealer which coverage shall be not less than one million dollars. Each registered dealer shall provide the department with evidence of each renewal of or change to such insurance coverage not later than five days after such renewal or change during the period of registration, which renewal or change shall meet the requirements of this subsection.

(d) Each registered dealer shall display its registration number in all advertisements and other materials prepared or issued by the dealer, which contain information regarding such dealer, including, but not limited to, all contracts, delivery tickets, letters and vehicle advertisements.

(e) The insurance company of a heating fuel dealer shall notify the commissioner, in writing, upon cancellation of insurance required by subsection (c) of this section by any heating fuel dealer. The commissioner shall revoke the registration of any such dealer without the insurance coverage required by subsection (c) of this section.

(f) Prior to offering a prepaid guaranteed price plan to a consumer, a dealer shall disclose the details of such offering, including such dealer's method of compliance with section 16a-23n, as amended by this act, on a form prescribed by the commissioner.

Sec. 3. Section 16a-23n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2014*):

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(a) A contract for the retail sale of heating fuel that offers a guaranteed price plan or a prepaid guaranteed price plan shall be in writing. [and the] The terms and conditions of such guaranteed price plan or prepaid guaranteed price plan shall be disclosed [. Such disclosure shall be] in plain language and shall immediately follow the language concerning the price or service that could be affected, if applicable, and shall be printed in no less than twelve-point boldface type of uniform font.

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

(c) Each capped price plan and any guaranteed price plan that includes the terms "cap", "capped", "maximum", "not to exceed" or any other similar term or description shall not increase above a specified price per gallon. The contract for such plan or for a prepaid guaranteed price plan shall contain clear and specific language stating how and under what circumstances the price will decrease, if applicable.

(d) (1) A heating fuel dealer shall, not later than five business days after entering into a prepaid guaranteed price plan contract, either: [(1)] (A) Obtain heating fuel physical inventory to which such dealer holds title, heating fuel futures or forwards contracts, physical supply contracts or other similar commitments the total amount of which allow such dealer to purchase, at a fixed price, heating fuel in an amount not less than eighty per cent of the maximum number of gallons or amount that such dealer is committed to deliver pursuant to all prepaid guaranteed price contracts entered into by such dealer, or [(2)] (B) obtain a surety bond in an amount not less than fifty per cent of the total amount of funds paid to the dealer by consumers pursuant to prepaid guaranteed price plan contracts.

(2) A heating fuel dealer shall, not later than five business days after

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entering into a guaranteed price plan contract, [that is not prepaid,] obtain heating fuel physical inventory to which such dealer holds title, heating fuel futures or forwards contracts, physical supply contracts or other similar commitments the total amount of which allow such dealer to purchase, at a fixed price, heating fuel in an amount not less than eighty per cent of the maximum number of gallons or amount that such dealer is committed to deliver pursuant to all guaranteed price plan contracts entered into by such dealer.

(3) Such dealer shall maintain such total amount of futures or forwards or physical supply contracts or other similar commitments or the amount of the surety bond required [by] under this subsection for the period of time for which such guaranteed price plan contracts are effective, except that the total amount of such futures or forwards or guaranteed price plan contracts or other similar commitments or the amount of the surety bond may be reduced during such period of time to reflect any amount of heating fuel already delivered to and paid for by the consumer.

(e) No guaranteed price plan contract or prepaid guaranteed price plan contract shall require any consumer commitment to purchase heating fuel pursuant to the terms of such contract for a period of more than eighteen months. A guaranteed price plan contract or prepaid guaranteed price plan contract for the purchase of heating fuel may not contain an automatic contract renewal or extension clause.

(f) Any guaranteed price plan contract or prepaid guaranteed price plan contract shall indicate, in clear and specific language: (1) The amount of funds paid by the consumer to the heating fuel dealer under such contract, (2) the maximum number of gallons of heating fuel committed by the dealer for delivery to the consumer pursuant to such contract, (3) that performance of such guaranteed price plan contract or prepaid guaranteed price plan contract is secured by one of the options described in subsection (d) of this section, and (4) if the price of

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heating fuel is subject to fluctuation, the circumstances under which the price may fluctuate. Any such contract shall provide that the contract price of any undelivered heating fuel owed to the consumer under the contract, on the end date of such contract, shall be reimbursed to the consumer not later than thirty days after the end date of such contract unless the parties to such contract agree otherwise.

(g) Each heating fuel dealer who enters into guaranteed price plan contracts or prepaid guaranteed price plan contracts shall inform the Commissioner of Consumer Protection, in writing, that such dealer is entering into such contracts and shall identify any entity from which the dealer has secured heating fuel futures or forwards contracts, physical supply contracts or other similar commitments or a surety bond pursuant to subsection (d) of this section. Each such dealer shall notify the commissioner if at any time the total amount of such secured futures or forwards contracts, physical supply contracts or other such similar commitments held by the dealer is less than eighty per cent of the maximum number of gallons or amount that such dealer is committed to deliver pursuant to all such contracts entered into by such dealer or, if the total amount of such surety bond is not more than fifty per cent of the remaining balance of funds consumers paid pursuant to prepaid guaranteed price plan contracts. The commissioner shall prescribe the form in which such information shall be reported.

(h) Each person from which a heating fuel dealer has secured a futures, forwards or physical supply contract or other similar commitment or a surety bond pursuant to subsection (d) of this section shall notify the Commissioner of Consumer Protection, in writing, of the cancellation of such contract or other similar commitment or surety bond not later than three business days after such cancellation.

Sec. 4. Section 16a-23p of the general statutes is repealed and the

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following is substituted in lieu thereof (*Effective July 1, 2014*):

The Department of Consumer Protection may suspend or revoke any registration issued under section 16a-23m, as amended by this act, if the holder of such registration is grossly incompetent, engages in malpractice or unethical conduct or knowingly makes false, misleading or deceptive representations regarding such holder's work, violates any provision of section 16a-23n, as amended by this act, or section 7 of this act, fails to comply with any subpoena issued pursuant to this section or violates any regulations adopted under section 16a-23q. Before any such registration is suspended or revoked, such holder shall be given notice and opportunity for hearing as provided in regulations adopted by said commissioner in accordance with the provisions of chapter 54. Said commissioner may compel by subpoena, at his or her discretion, the production of any documents from any heating fuel dealer or from any provider of futures or forwards contracts, physical supply contracts or other similar commitments or a surety bond, regarding compliance with the provisions of sections 16a-23m to 16a-23r, inclusive, as amended by this act, or section 7 of this act.

Sec. 5. Section 16a-23r of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2014*):

(a) A violation of the provisions of section 16a-23m, as amended by this act, 16a-23n, as amended by this act, [or] 16a-23o or section 7 of this act constitutes an unfair trade practice under subsection (a) of section 42-110b.

(b) In accordance with the provisions of section 53a-11, any heating fuel dealer who knowingly violates the provisions of subsection (d) of section 16a-23n, as amended by this act, shall have committed a class A misdemeanor. The commissioner shall report such violation to the office of the state's attorney for the judicial district in which such

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violation occurred.

(c) Any person, firm or corporation who violates the provisions of section 16a-23m, as amended by this act, 16a-23n, as amended by this act, [or] 16a-23o or section 7 of this act shall be fined not more than five hundred dollars for the first offense, not more than seven hundred fifty dollars for a second offense occurring not more than three years after a prior offense and not more than one thousand five hundred dollars for a third or subsequent offense occurring not more than three years after a prior offense.

Sec. 6. Section 16a-23s of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2014*):

(a) The Department of Consumer Protection shall establish a list of all [registered home heating oil and propane gas] heating fuel dealers. The department shall make the list available to all wholesalers of [home heating oil or propane gas] heating fuel doing business in the state and such wholesalers shall only sell to the [registered home heating oil or propane gas] heating fuel dealers on said list.

(b) The Department of Consumer Protection shall establish a list of all heating fuel dealers that have disclosed offerings of prepaid guaranteed price plans to consumers pursuant to subsection (c) of section 16a-23m, as amended by this act. Such list shall be made available to the public on the department's Internet web site.

Sec. 7. (NEW) (*Effective July 1, 2014*) (a) On and after July 1, 2014, no heating fuel dealer shall offer a prepaid guaranteed price plan to a consumer during the period beginning on November first and ending on March thirty-first. The provisions of this subsection shall not prohibit the delivery of heating fuel by a heating fuel dealer to a consumer during said period if the consumer entered into a prepaid guaranteed price plan contract with the heating fuel dealer to provide

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for the delivery of heating fuel during said period and such contract was entered into prior to July 1, 2014, or outside of said period.

(b) A heating fuel dealer shall, prior to entering into a prepaid guaranteed price plan contract with a consumer, provide the consumer with a conspicuous statement, printed in no less than twelve-point boldface type of uniform font, in substantially the following form:

"DISCLOSURE NOTICE CONCERNING CREDIT CARD PAYMENT OPTION. If you pay by credit card for a prepaid guaranteed heating fuel price plan contract, you may be entitled to recovery payments pursuant to the federal Fair Credit Billing Act or your credit card company's terms and conditions if heating fuel is not delivered to you in accordance with the contract."

Sec. 8. (NEW) (*Effective from passage*) Not later than June fifteenth each year, the Commissioner of Revenue Services shall notify the Department of Consumer Protection of any outstanding tax delinquencies owed to the state by any heating fuel dealer, as defined in section 16a-23m of the general statutes, as amended by this act.

Approved May 28, 2014