



General Assembly

Amendment

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LCO No. 3832

SB0029903832SD0

Offered by:

SEN. DOYLE, 9th Dist.

SEN. WITKOS, 8th Dist.

REP. BARAM, 15th Dist.

REP. FRITZ, 90th Dist.

REP. ALTOBELLO, 82nd Dist.

REP. SANTIAGO, 84th Dist.

REP. ABERCROMBIE, 83rd Dist.

SEN. BARTOLOMEO, 13th Dist.

To: Subst. Senate Bill No. 299

File No. 322

Cal. No. 228

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsection (g) of section 16a-21 of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective July*
5 *1, 2014*):

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

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

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

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

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

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 Section 16a-23m of the general statutes is repealed and the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

19 (a) As used in this section, [and] sections 16a-23n to [16a-23r,] 16a-
20 23s, inclusive, as amended by this act, and section 7 of this act:

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

27 ~~[(1)]~~ (2) "Capped price plan" means an agreement where the cost to
28 the consumer of heating fuel shall not increase above a specified price
29 per gallon and the consumer shall pay less than the specified price
30 under circumstances specified in such contract;

31 ~~[(2)]~~ (3) "Commissioner" means the Commissioner of Consumer
32 Protection;

33 ~~[(3)]~~ (4) "Consumer" means a direct purchaser of heating fuel from a
34 heating fuel dealer, when such fuel is the primary source of heating
35 fuel for residential heating or domestic hot water to one or more
36 dwelling units within a structure having not more than four dwelling
37 units;

38 ~~[(4)]~~ (5) "Forwards contract" means an agreement between two

39 parties to buy or sell an asset at a certain future time for a certain price;

40 [(5)] (6) "Futures contract" means a standardized, transferable,
41 exchange-traded agreement that requires delivery of heating fuel at a
42 specified price on a specified future date;

43 [(6)] (7) "Gallon" means an accepted unit of measure consisting of
44 two hundred thirty-one cubic inches, for all liquid or gaseous heating
45 fuel, subject to modifications allowed under regulations adopted
46 pursuant to section 43-42;

47 [(7)] (8) "Guaranteed price plan", also known as "guaranteed plan",
48 "fixed price", ["buy ahead", "prebuy", "prebought", "prepaid,"] "full
49 price", "lock in", "capped", "price cap", or other similar terminology,
50 when used to describe a contract, means a type of contract that is not
51 paid in advance of delivery, offering heating fuel at a guaranteed
52 future price or at a maximum future price;

53 [(8)] (9) "Heating fuel" means any petroleum-based fuel used as a
54 primary source of residential heating or domestic hot water, including
55 petroleum products regulated pursuant to chapter 250;

56 [(9)] (10) "Heating fuel dealer" or "dealer" means any individual or
57 group of individuals, or a firm, partnership, corporation, cooperative
58 or limited liability company that offers the retail sale of heating fuel to
59 consumers;

60 [(10)] (11) "Heating oil" means a predominantly liquefied petroleum
61 product at ambient temperatures, that is sold as a commodity and is a
62 primary source of residential heating or domestic hot water, including
63 products known as #2 oil (heating oil), #1 oil (kerosene), #4 oil, bio
64 fuels, or any bio fuel blended with conventionally refined fossil fuel
65 commodities and that meets the requirements of the American Society
66 for Testing and Materials Standard D396, as amended from time to
67 time;

68 [(11)] (12) "Maintain" means retention of the balance, measured in

69 gallons or other accepted units of measure, of heating fuel that remains
70 to be delivered to consumers who are party to a guaranteed price plan
71 contract;

72 [(12)] (13) "Physical supply contract" means an agreement for wet
73 barrels or gallons of heating fuel that has been secured by a heating
74 fuel dealer;

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

80 [(13)] (15) "Propane" or "liquefied petroleum gas (LPG)" means a
81 petroleum product that meets ASTM specification D1835, as amended
82 from time to time, and is composed predominantly of any of the
83 following hydrocarbons or mixtures thereof: Propane, propylene,
84 butanes (normal butane or isobutane), and butylenes and is intended
85 for use, among other things, as a fuel for residential heating; and

86 [(14)] (16) "Surety bond" means a bond issued by a licensed
87 insurance company or banking institution as surety for a dealer
88 obligating the surety to the commissioner in a sum certain in guaranty
89 of the full and faithful performance by the dealer of prepaid
90 guaranteed price plan contracts entered into pursuant to this chapter.

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

98 (c) Each person, firm or corporation seeking registration as a heating
99 fuel dealer shall apply annually for a certificate of registration with the

100 Department of Consumer Protection on forms prescribed by the
101 commissioner. Each heating fuel dealer shall disclose on such forms all
102 affiliated companies registered with the department that are under
103 common ownership or have interlocking boards of directors. Each
104 applicant shall pay a registration fee of two hundred dollars. The
105 commissioner shall require all applicants for registration as a heating
106 fuel dealer to provide evidence of general liability insurance coverage
107 and insurance to cover any potential environmental damage due to
108 heating fuel spills or leaks caused by such applicant as a registered
109 dealer which coverage shall be not less than one million dollars. Each
110 registered dealer shall provide the department with evidence of each
111 renewal of or change to such insurance coverage not later than five
112 days after such renewal or change during the period of registration,
113 which renewal or change shall meet the requirements of this
114 subsection.

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

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

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

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

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

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

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

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

160 (2) A heating fuel dealer shall, not later than five business days after
161 entering into a guaranteed price plan contract, [that is not prepaid,]
162 obtain heating fuel physical inventory to which such dealer holds title,

163 heating fuel futures or forwards contracts, physical supply contracts or
164 other similar commitments the total amount of which allow such
165 dealer to purchase, at a fixed price, heating fuel in an amount not less
166 than eighty per cent of the maximum number of gallons or amount
167 that such dealer is committed to deliver pursuant to all guaranteed
168 price plan contracts entered into by such dealer.

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

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

184 (f) Any guaranteed price plan contract or prepaid guaranteed price
185 plan contract shall indicate, in clear and specific language: (1) The
186 amount of funds paid by the consumer to the heating fuel dealer under
187 such contract, (2) the maximum number of gallons of heating fuel
188 committed by the dealer for delivery to the consumer pursuant to such
189 contract, (3) that performance of such guaranteed price plan contract
190 or prepaid guaranteed price plan contract is secured by one of the
191 options described in subsection (d) of this section, and (4) if the price of
192 heating fuel is subject to fluctuation, the circumstances under which
193 the price may fluctuate. Any such contract shall provide that the
194 contract price of any undelivered heating fuel owed to the consumer
195 under the contract, on the end date of such contract, shall be

196 reimbursed to the consumer not later than thirty days after the end
197 date of such contract unless the parties to such contract agree
198 otherwise.

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

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

222 Sec. 4. Section 16a-23p of the general statutes is repealed and the
223 following is substituted in lieu thereof (*Effective July 1, 2014*):

224 The Department of Consumer Protection may suspend or revoke
225 any registration issued under section 16a-23m, as amended by this act,
226 if the holder of such registration is grossly incompetent, engages in
227 malpractice or unethical conduct or knowingly makes false,

228 misleading or deceptive representations regarding such holder's work,
229 violates any provision of section 16a-23n, as amended by this act, or
230 section 7 of this act, fails to comply with any subpoena issued pursuant
231 to this section or violates any regulations adopted under section 16a-
232 23q. Before any such registration is suspended or revoked, such holder
233 shall be given notice and opportunity for hearing as provided in
234 regulations adopted by said commissioner in accordance with the
235 provisions of chapter 54. Said commissioner may compel by subpoena,
236 at his or her discretion, the production of any documents from any
237 heating fuel dealer or from any provider of futures or forwards
238 contracts, physical supply contracts or other similar commitments or a
239 surety bond, regarding compliance with the provisions of sections 16a-
240 23m to 16a-23r, inclusive, as amended by this act, or section 7 of this
241 act.

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

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

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

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

260 dollars for a third or subsequent offense occurring not more than three
261 years after a prior offense.

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

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

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

275 Sec. 7. (NEW) (*Effective July 1, 2014*) (a) On and after July 1, 2014, no
276 heating fuel dealer shall offer a prepaid guaranteed price plan to a
277 consumer during the period beginning on November first and ending
278 on March thirty-first. The provisions of this subsection shall not
279 prohibit the delivery of heating fuel by a heating fuel dealer to a
280 consumer during said period if the consumer entered into a prepaid
281 guaranteed price plan contract with the heating fuel dealer to provide
282 for the delivery of heating fuel during said period and such contract
283 was entered into prior to July 1, 2014, or outside of said period.

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

288 "DISCLOSURE NOTICE CONCERNING CREDIT CARD
289 PAYMENT OPTION. If you pay by credit card for a prepaid
290 guaranteed heating fuel price plan contract, you may be entitled to

291 recovery payments pursuant to the federal Fair Credit Billing Act or
 292 your credit card company's terms and conditions if heating fuel is not
 293 delivered to you in accordance with the contract."

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2014</i>	16a-21(g)
Sec. 2	<i>July 1, 2014</i>	16a-23m
Sec. 3	<i>July 1, 2014</i>	16a-23n
Sec. 4	<i>July 1, 2014</i>	16a-23p
Sec. 5	<i>July 1, 2014</i>	16a-23r
Sec. 6	<i>July 1, 2014</i>	16a-23s
Sec. 7	<i>July 1, 2014</i>	New section
Sec. 8	<i>from passage</i>	New section