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## OLR Bill Analysis

**sSB 299 (File 322, as amended by Senate "A")\***

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

**SUMMARY:**

This bill prohibits heating fuel dealers from offering prepaid heating fuel guaranteed price plan contracts (ones offering a guaranteed price paid in advance of delivery) to consumers between November 1 and March 31 of the next year.

It also requires dealers offering prepaid guaranteed price plan contracts to consumers to (1) disclose details of the offer before offering the contract, including how they will secure the contract, on a Department of Consumer Protection (DCP) prescribed form and (2) inform consumers that they may be entitled to recover credit card payments if the fuel is not delivered. DCP must establish, and make available on its website, a list of all heating fuel dealers that offer prepaid guaranteed price plans to consumers.

The bill (1) requires the Department of Revenue Services (DRS) commissioner to notify DCP, by June 15 annually, of any outstanding tax delinquencies a heating fuel dealer owes to the state; (2) lowers the minimum fuel oil delivery amount on which dealers may impose a surcharge; and (3) makes technical changes.

\*Senate Amendment "A" (1) exempts budget plans from the prepaid guaranteed price plan requirements and (2) requires additional disclosure information for the credit card recovery notification provision.

EFFECTIVE DATE: July 1, 2014, except for the DRS notification which is effective on passage.

## **GUARANTEED PRICE PLANS**

Current law defines a “guaranteed price plan” as a contract offering heating fuel at a guaranteed future price or a maximum future price, irrespective of when payment is made. The bill differentiates “prepaid guaranteed price plan,” which is a contract paid for in advance of delivery, but excludes a budget plan, from “guaranteed price plan,” which is a contract not paid for in advance of delivery. A “budget plan” is a heating fuel contract that may be paid in advance, on or after delivery, and is paid for in at least three installments over 120 days or more. The first required payment cannot be more than 50% of the remaining amount due.

In addition to the existing requirements governing guaranteed price plans, the bill imposes additional disclosure requirements on prepaid plans.

## **PREPAID PLANS**

### ***Prohibited Contracting Periods***

The bill prohibits heating fuel dealers from offering prepaid heating fuel guaranteed price plan contracts to consumers between November 1 and March 31 of the next year. Dealers may deliver heating fuel during this period if the customer entered into a contract with the dealer to provide delivery during this period and the contract was entered before July 1, 2014 or outside the prohibited period.

### ***Contract Security Disclosure***

The bill requires heating fuel dealers, before offering a prepaid guaranteed price plan to consumers, to disclose the plan’s details on a DCP-prescribed form. The details must include the dealer’s method of securing the contract, as required by existing law (CGS § 16a-23n(d)). By law, such a contract must already indicate, in clear and specific language, that it is secured using one of the acceptable methods, among other things (CGS § 16a-23n(f)). Securing a contract means pledging an asset or property as collateral, which, in case of default, may be seized and sold to mitigate losses.

By law, dealers may secure prepaid guaranteed price plan contracts

in one of two ways. The first is by obtaining heating fuel physical inventory to which the dealer holds title, futures or forwards contracts, physical supply contracts, or other similar commitments, the total amount of which allows the dealer to purchase, at a fixed price, at least 80% of the maximum number of gallons of fuel or amount that the dealer is committed to deliver under all of its guaranteed price contracts. The second is by obtaining a surety bond equal to at least 50% of the total amount paid by consumers.

Under the bill, the DCP commissioner must report any dealer who knowingly fails to secure the contract (including non-prepaid guaranteed contracts) to the state's attorney for the district where the violation occurs. By law, violators may be guilty of a class A misdemeanor, which is punishable by up to a \$2,000 fine, up to one years' imprisonment, or both.

#### ***Credit Card Recovery Disclosure***

Under the bill, a heating fuel dealer must, before entering into a prepaid guaranteed price plan contract with a consumer, provide a conspicuous statement printed in at least 12-point boldface type of uniform font, in a form similar to: "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."

#### ***Penalties***

The bill imposes penalties for offering a contract during the prohibited times and failing to make the required disclosures. Violators are deemed to have committed an unfair and deceptive trade practice and are subject to maximum fines of (1) \$500 for a first offense, (2) \$750 for a second offense within three years of the prior offense, and (3) \$1,500 for subsequent offenses within three years of the prior offense.

These are the same as the penalties under existing law for home

heating fuel and guaranteed price plan violations.

### **DELIVERY FEE OR SURCHARGE**

Current law allows a dealer to impose a delivery fee, charge, or surcharge on heating fuel deliveries when the shipment contains 100 gallons or less. The bill reduces this amount to less than 100 gallons, thus prohibiting this fee on 100-gallon deliveries. A violation is deemed an unfair and deceptive trade practice.

### **BACKGROUND**

#### ***Connecticut Unfair Trade Practices Act (CUTPA)***

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP 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. It 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 willful violations and \$25,000 for violating a restraining order.

### **COMMITTEE ACTION**

General Law Committee

Joint Favorable Substitute

Yea 16 Nay 1 (03/18/2014)