

March 8, 2014

General Law Committee
Paul Doyle, David Baran, Co-Chairs
State of Connecticut General Assembly

Re: SB 299, An Act Establishing a Prepaid Consumer Heating Fuel Contract Guarantee Fund

Dear Sirs,

I am writing to ask that you vehemently oppose SB 299, An Act Establishing a Prepaid Consumer Heating Fuel Contract Guarantee Fund.

This act requires that every Heating Oil Dealer (HOD) licensed in the state pay \$3900.00 into a fund on July 1st and \$500.00 annually thereafter, to reimburse consumers who lose money By paying for heating oil in advance of delivery, in the event the dealer closes before the fuel is delivered. It would even require payment into the fund for dealers who do not offer risky contracts of this type!

In the past 20-plus years that I have been the President of my family-owned business, there are only three such circumstances that have occurred in Connecticut of which I am aware. The first was F & S Oil. The principal player in that company was engaged in FRAUD, for which he should be, and has been punished through the legal system. The second was Bernie's Fuel. The principal in that company was engaged in what could only be FRAUD, since every asset he or the company owned, was mortgaged three or four times its actual value. I sincerely hope that the law will hold him accountable. The third incident was more recent, and I have no knowledge of the particulars in that case, but I can assume that the same activities practiced in the first two were being practiced by the third. I hope that the law punishes these people to the fullest extent if found guilty.

My problem with SB 299 is that this act punishes me, and every other reputable dealer in Connecticut who had absolutely no involvement in the illegal acts of those companies and those people! I am extremely distressed by this. There is no reason on earth that honest business people like myself should be punished for the illegal acts of another, over whom we have no control, and no knowledge even (until the news hits the papers), of his actions. If one of your committee members commits an illegal act, are each of you responsible for making his victims whole? Of course not! If one of your members were to commit an illegal act, I imagine that every one of you, being law-abiding citizens of upstanding character, would hold that individual responsible, and agree that the punishment and restitution should be borne completely by the person who broke the law.

There are over 600 registered HODs in this state. The vast majority of us are upstanding citizens like yourselves. Look at the numbers. Three out of several hundreds, in twenty-some years are responsible for victimizing consumers. The impact of their crooked business dealings is very hard on their victims, without a doubt. But those victims did not have a contract with me. I did not victimize those consumers, and my industry as a whole did not. The industry as a whole must not be punished for three bad players. I simply cannot afford to

be penalized for another's illegal activities, and I shouldn't have to be, any more than you would be held personally responsible for the bad deeds of another of your ranks.

Someone must bring up this issue as well: Funds collected through initiatives like this one are all too frequently raided by our state, never to be used for the intended purpose. Nobody likes this practice. Nobody. Voters are all too well acquainted with this practice in Connecticut, and unfortunately we have come to expect this as the rule, not the exception. We will not stand for this punishment when we know it is no solution to the issue of restitution, and when the wrong people are bearing the punishment.

Most of the 600-plus HODs in Connecticut belong to CEMA, of which you are familiar. We, and even non-member businesses hate to see any of our competitors sully the reputation of our industry. We are proudly known to come out at all hours of the night for no-heat calls, to deliver fuel in five-gallon jugs to homes that have impassable driveways, to trudge through deep snow to get to fill pipes, to notice health and safety hazards while in your basements (and call your attention to them before disaster strikes), to bring fuel to needy families through a multitude of assistance agencies, and even to discount our fuel or make charitable donations of fuel ourselves, to stretch a family's tight resources. Heating oil dealers are the most trusted independent business people of all; we have keys to your homes, and watch over them even when you're away for extended periods!

We all know that some consumers still want to be able to purchase pre-pay contracts. There are already safeguards in place to protect consumers when they engage in these contracts. How can we protect consumers further, protect them from FRAUD perpetrated by criminal acts? First, we must recognize how to identify situations as they develop, which could indicate imminent failure of a heating oil dealer. This is fairly simple, actually. No heating oil dealer ought to be collecting money during a heating season, for delivery of fuel in the next heating season. This is a clear signal of a cash-flow emergency. Any dealer that does this could be collecting money to pay his bills now, and won't have money to buy fuel next winter, when those customers need it. This is exactly what Bernie's was doing. The next signal is instead of delivering full loads to each customer, the cash-strapped dealer is making "short deliveries." 50 gallons (or less) and an excuse.

CEMA members have a proposal to replace SB299 that makes a lot of sense. We propose instead of punishing the dealers who have done no wrong, that the legislature adopt limits on when Pre-pay contracts can be sold, and how far out they can be projected. My company already does this: We begin selling contract-price oil sometime in the summer months, for the upcoming heating season only. We stop selling contracts for the upcoming heating season by the end of October. Once into November, if anyone wants to buy a contract, we simply state that contracts are only available for a limited period, and won't be again until the following summer, for next season. We offer no other option than that. If our competitors are selling contracts in November through March, for next heating season, we know what they are up to, and it is no good! State law currently allows dealers to sell contracts 18 months out. It's a bad practice, and is a fairly good indicator that the company engaging in it needs a closer look by consumer protection advocates. If the CEMA proposal were adopted, all companies would be limited to selling contracts within the stated period only, and for the impending heating season only. Bad apples would easily be recognized. Reporting of infractions would be made quickly by dealers who follow the law, since the unscrupulous ones would be cutting our throats. We can do without their kind, thank you very much. Please, ask the Department

of Consumer Protection; who reports dealer infractions to you? I'll bet they will say reports come most often from the dealers themselves, or from CEMA, on behalf of the dealers.

Oppose SB 299. Punish criminals for criminal acts. Don't punish hundreds of good people for the illegal acts of a few criminals. Adopt the CEMA members' proposal. It allows consumers to purchase the contracts they wish, and puts reasonable limits on the businesses that offer them. It allows for easy identification of businesses violating the law, so the Department of Consumer Protection can step in to stop the practice, and learn what is going on in that individual situation. Prevention of further crimes against consumers is a goal worth working on, together.

Thank you for your consideration.

Jamie K.W. Lohr, President



HOD #31

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cc. Andrew Maynard

