



General Assembly

**Amendment**

February Session, 2014

LCO No. 3722

**\*SB0029903722SD0\***

Offered by:

SEN. DOYLE, 9<sup>th</sup> Dist.

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REP. ALTOBELLO, 82<sup>nd</sup> Dist.

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REP. ABERCROMBIE, 83<sup>rd</sup> Dist.

SEN. BARTOLOMEO, 13<sup>th</sup> 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4 repealed and the following is substituted in lieu thereof (*Effective July*  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 Section 16a-23m of the general statutes is repealed and the  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;

25 ~~[(1)]~~ (2) "Capped price plan" means an agreement where the cost to  
26 the consumer of heating fuel shall not increase above a specified price  
27 per gallon and the consumer shall pay less than the specified price  
28 under circumstances specified in such contract;

29 ~~[(2)]~~ (3) "Commissioner" means the Commissioner of Consumer  
30 Protection;

31 ~~[(3)]~~ (4) "Consumer" means a direct purchaser of heating fuel from a  
32 heating fuel dealer, when such fuel is the primary source of heating  
33 fuel for residential heating or domestic hot water to one or more  
34 dwelling units within a structure having not more than four dwelling  
35 units;

36 ~~[(4)]~~ (5) "Forwards contract" means an agreement between two  
37 parties to buy or sell an asset at a certain future time for a certain price;

38 ~~[(5)]~~ (6) "Futures contract" means a standardized, transferable,

39 exchange-traded agreement that requires delivery of heating fuel at a  
40 specified price on a specified future date;

41 [(6)] (7) "Gallon" means an accepted unit of measure consisting of  
42 two hundred thirty-one cubic inches, for all liquid or gaseous heating  
43 fuel, subject to modifications allowed under regulations adopted  
44 pursuant to section 43-42;

45 [(7)] (8) "Guaranteed price plan", also known as "guaranteed plan",  
46 "fixed price", ["buy ahead", "prebuy", "prebought", "prepaid",] "full  
47 price", "lock in", "capped", "price cap", or other similar terminology,  
48 when used to describe a contract, means a type of contract that is not  
49 paid in advance of delivery, offering heating fuel at a guaranteed  
50 future price or at a maximum future price;

51 [(8)] (9) "Heating fuel" means any petroleum-based fuel used as a  
52 primary source of residential heating or domestic hot water, including  
53 petroleum products regulated pursuant to chapter 250;

54 [(9)] (10) "Heating fuel dealer" or "dealer" means any individual or  
55 group of individuals, or a firm, partnership, corporation, cooperative  
56 or limited liability company that offers the retail sale of heating fuel to  
57 consumers;

58 [(10)] (11) "Heating oil" means a predominantly liquefied petroleum  
59 product at ambient temperatures, that is sold as a commodity and is a  
60 primary source of residential heating or domestic hot water, including  
61 products known as #2 oil (heating oil), #1 oil (kerosene), #4 oil, bio  
62 fuels, or any bio fuel blended with conventionally refined fossil fuel  
63 commodities and that meets the requirements of the American Society  
64 for Testing and Materials Standard D396, as amended from time to  
65 time;

66 [(11)] (12) "Maintain" means retention of the balance, measured in  
67 gallons or other accepted units of measure, of heating fuel that remains  
68 to be delivered to consumers who are party to a guaranteed price plan  
69 contract;

70 [(12)] (13) "Physical supply contract" means an agreement for wet  
71 barrels or gallons of heating fuel that has been secured by a heating  
72 fuel dealer;

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

78 [(13)] (15) "Propane" or "liquefied petroleum gas (LPG)" means a  
79 petroleum product that meets ASTM specification D1835, as amended  
80 from time to time, and is composed predominantly of any of the  
81 following hydrocarbons or mixtures thereof: Propane, propylene,  
82 butanes (normal butane or isobutane), and butylenes and is intended  
83 for use, among other things, as a fuel for residential heating; and

84 [(14)] (16) "Surety bond" means a bond issued by a licensed  
85 insurance company or banking institution as surety for a dealer  
86 obligating the surety to the commissioner in a sum certain in guaranty  
87 of the full and faithful performance by the dealer of prepaid  
88 guaranteed price plan contracts entered into pursuant to this chapter.

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

96 (c) Each person, firm or corporation seeking registration as a heating  
97 fuel dealer shall apply annually for a certificate of registration with the  
98 Department of Consumer Protection on forms prescribed by the  
99 commissioner. Each heating fuel dealer shall disclose on such forms all  
100 affiliated companies registered with the department that are under

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

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

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

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

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

129 (a) A contract for the retail sale of heating fuel that offers a  
130 guaranteed price plan or a prepaid guaranteed price plan shall be in  
131 writing. [and the] The terms and conditions of such guaranteed price

132 plan or prepaid guaranteed price plan shall be disclosed [. Such  
133 disclosure shall be] in plain language and shall immediately follow the  
134 language concerning the price or service that could be affected, if  
135 applicable, and shall be printed in no less than twelve-point boldface  
136 type of uniform font.

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

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

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

158 (2) A heating fuel dealer shall, not later than five business days after  
159 entering into a guaranteed price plan contract, [that is not prepaid,]  
160 obtain heating fuel physical inventory to which such dealer holds title,  
161 heating fuel futures or forwards contracts, physical supply contracts or  
162 other similar commitments the total amount of which allow such  
163 dealer to purchase, at a fixed price, heating fuel in an amount not less

164 than eighty per cent of the maximum number of gallons or amount  
165 that such dealer is committed to deliver pursuant to all guaranteed  
166 price plan contracts entered into by such dealer.

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

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

182 (f) Any guaranteed price plan contract or prepaid guaranteed price  
183 plan contract shall indicate, in clear and specific language: (1) The  
184 amount of funds paid by the consumer to the heating fuel dealer under  
185 such contract, (2) the maximum number of gallons of heating fuel  
186 committed by the dealer for delivery to the consumer pursuant to such  
187 contract, (3) that performance of such guaranteed price plan contract  
188 or prepaid guaranteed price plan contract is secured by one of the  
189 options described in subsection (d) of this section, and (4) if the price of  
190 heating fuel is subject to fluctuation, the circumstances under which  
191 the price may fluctuate. Any such contract shall provide that the  
192 contract price of any undelivered heating fuel owed to the consumer  
193 under the contract, on the end date of such contract, shall be  
194 reimbursed to the consumer not later than thirty days after the end  
195 date of such contract unless the parties to such contract agree  
196 otherwise.

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

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

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

222 The Department of Consumer Protection may suspend or revoke  
223 any registration issued under section 16a-23m, as amended by this act,  
224 if the holder of such registration is grossly incompetent, engages in  
225 malpractice or unethical conduct or knowingly makes false,  
226 misleading or deceptive representations regarding such holder's work,  
227 violates any provision of section 16a-23n, as amended by this act, or  
228 section 7 of this act, fails to comply with any subpoena issued pursuant  
229 to this section or violates any regulations adopted under section 16a-

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

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

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

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

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

260 Sec. 6. Section 16a-23s of the general statutes is repealed and the

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

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

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

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

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

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

292       Sec. 8. (NEW) (*Effective from passage*) Not later than June fifteenth  
 293 each year, the Commissioner of Revenue Services shall notify the  
 294 Department of Consumer Protection of any outstanding tax  
 295 delinquencies owed to the state by any heating fuel dealer, as defined  
 296 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