

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 14-51—sSB 299
General Law Committee

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

SUMMARY: This act prohibits heating fuel dealers from offering prepaid guaranteed price plans (plans offering a guaranteed heating fuel price paid in advance of delivery) to consumers between November 1 and March 31 of the following year.

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

The act (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 the state; (2) lowers the minimum heating fuel delivery amount on which dealers may impose a surcharge; and (3) makes technical changes.

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

GUARANTEED PRICE PLANS

Prior law defined a “guaranteed price plan” as a contract offering heating fuel at a guaranteed future price or a maximum future price, irrespective of when payment was made. The act separates out those contracts paid in advance (“prepaid guaranteed price plans”) and imposes additional requirements on them.

But it excludes from such prepaid plans “budget plans,” which it defines as heating fuel contracts that (1) may be paid for in advance of, on, or after delivery; (2) are paid for in at least three installments over 120 days or more; and (3) limit the first required payment to a maximum of 50% of amounts due.

Under the act, a budget plan that is prepaid at a guaranteed price or does not have a fixed price, is not subject to either the guaranteed price plan or prepaid guaranteed price plan requirements, but must comply with general retail heating fuel contracting requirements (e.g., written in plain language and including all terms and conditions (CGS § 16a-21)).

PREPAID GUARANTEED PRICE PLANS

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In addition to the existing requirements governing guaranteed price plans, the act establishes new prepaid guaranteed price plan contracting restrictions, specific disclosure requirements, and penalties for violations.

Prohibited Contracting Periods

The act prohibits heating fuel dealers from offering prepaid guaranteed price plans to consumers between November 1 and the following March 31. Dealers may deliver heating fuel during this period if the customer entered into a contract with the dealer to make deliveries during this period and the contract was entered into before July 1, 2014 or between April 1 and October 31.

Contract Security Disclosure

The act 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 two acceptable methods, among other things (CGS § 16a-23n(f)).

By law, dealers may secure prepaid guaranteed price plan contracts in either 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 prepaid guaranteed price plan contracts.

Under the act, the DCP commissioner must report any dealer who knowingly fails to secure the contract (including non-prepaid guaranteed price plan contracts) to the state's attorney for the judicial district where the violation occurs. By law, such a violation is a class A misdemeanor (see Table on Penalties).

Credit Card Recovery Disclosure

Under the act, 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 act imposes penalties for offering a contract during the prohibited times

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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 a prior offense. Under the act, the DCP commissioner may require heating fuel dealers to produce documents demonstrating compliance with these requirements. DCP may also suspend or revoke a violator's registration.

These penalties are the same as those under existing law for home heating fuel and guaranteed price plan violations.

DELIVERY FEE OR SURCHARGE

Prior law allowed a dealer to impose a delivery fee, charge, or surcharge on heating fuel deliveries when the shipment contained 100 gallons or less. The act 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.

Related Act

PA 14-191 makes a technical change to an internal reference in this act.

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