



**House Bill No. 5435**

**Public Act No. 16-69**

**AN ACT CONCERNING CONSUMERS AND PROPANE FUEL PROVIDERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (a) of section 16a-21 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(a) (1) No heating fuel dealer shall sell heating fuel or rent or lease a heating fuel tank without a written contract that contains all the terms and conditions for delivery of such heating fuel and the amount of fees, charges, surcharges or penalties allowed under this section and assessed to the consumer under such contract. No such contract shall contain any fees, charges, surcharges or penalties, except for those allowed pursuant to subsections (e), (f) and (g) of this section and for tank rental fees or liquidated damages for violation of the contract terms. No contract for the delivery of heating fuel under this subsection shall include a provision for liquidated damages for a consumer breach of such contract where the liquidated damages exceed the actual damages to the heating fuel dealer caused by such breach. No written contract period for heating fuel shall be for a term greater than thirty-six months. Each heating fuel dealer shall offer consumers the option to enter into a bona fide commercially

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reasonable contract for a term of eighteen months. A consumer and a heating fuel dealer may agree to enter into a bona fide commercially reasonable contract for a term of less than eighteen months. Longer fuel contract term lengths may be permitted for underground tank consumers, provided the fuel term agreements are concurrent with tank lease agreements as specified in subdivision (2) of this subsection. [Any contract for the rent or lease of a propane fuel tank shall contain a provision informing the consumer of any restrictions concerning such customer's ability to utilize another propane fuel provider and shall require the consumer to initial such provision to indicate awareness of such restrictions.] No provision in a contract that restricts a consumer's ability to utilize another propane fuel provider shall be valid or enforceable unless the consumer has initialed a clear and conspicuous statement in all capital letters of no less than twelve-point boldface type indicating that the consumer is aware of such restriction.

(2) If a tank is being leased or lent to a consumer, a contract for the tank rental or loan shall indicate in writing a description of the tank, initial installation charges, if any, the amount and timing of rental or loan payments, the manner in which the lessor will credit the lessee for any unused heating fuel and terms by which a lessee may terminate the contract. A lessor may enter into a separate contract with the lessee for additional services including, but not limited to, maintenance, repair and warranty of equipment, provided such contract complies with the provisions of this section. No contract for tanks installed above ground shall be for a term greater than thirty-six months. Each consumer shall be given the option to enter into a bona fide commercially reasonable contract for a term of eighteen months. A lessee and a lessor may agree to enter into a bona fide commercially reasonable contract for a term of less than eighteen months. No contract for a tank installed underground shall exceed five years.

(3) (A) If a tank installed underground is provided to a consumer, a

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contract for such tank shall contain a clause providing the consumer with the option to purchase the tank and associated equipment at a price not exceeding a commercially reasonable price at any time during the length of the contract, [, but not later than five years after the date of commencement of the contract.] The purchase price for the tank shall be disclosed in the contract and shall not increase before the contract expires. Any waiver of liability or transfer of warranty shall be stated in the contract. No contract for such tank shall be valid or enforceable unless the consumer has initialed a clear and conspicuous statement in all capital letters of no less than twelve-point bold face type, indicating the consumer is aware of such option to purchase the tank and associated equipment. For existing contracts, whether oral or written, where the purchase option or purchase price is silent or unspecified, a contract addendum including the purchase option and a commercially reasonable [purchase] price shall be mailed or delivered to the consumer not later than September 1, 2013. Such contract addendum shall contain a clause providing the lessee with the option of purchasing the tank and associated equipment at any time prior to September 1, 2018. Upon purchase of the tank and any associated equipment, any existing contract obligations pursuant to subdivisions (1) and (2) of this subsection shall terminate immediately, except for guaranteed price plans pursuant to chapter 296a.

(B) If a tank installed above ground is provided to a consumer, a contract for such tank shall contain a clause providing the consumer with the option to purchase [the] a new tank and associated equipment at a price not exceeding a commercially reasonable price at any time during the length of the contract, [, but not later than five years after the date of commencement of the contract.] The purchase price for the tank, associated equipment and associated installation charges shall [not exceed the fair market value for such tank and shall] be disclosed in the contract and not increase before the contract expires. Any waiver of liability or transfer of warranty shall be stated in the contract. [For

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existing contracts, whether oral or written, where the purchase option or purchase price is silent or unspecified, a contract addendum including the purchase option and a purchase price of not more than the fair market value shall be mailed or delivered to the consumer not later than September 1, 2016. Such contract addendum shall contain a clause providing the lessee with the option of purchasing the tank and associated equipment at any time prior to September 1, 2021.] No contract for such tank shall be valid or enforceable unless the consumer has initialed a clear and conspicuous statement in all capital letters of no less than twelve-point bold face type, indicating that the consumer is aware of such option to purchase a new tank and associated equipment. Upon purchase of the tank and any associated equipment, any existing contract obligations pursuant to subdivisions (1) and (2) of this subsection shall terminate immediately, except for guaranteed price plans pursuant to chapter 296a.

(4) A contract required by this section shall be in writing and shall comply with the plain language requirements of section 42-152, provided any fee, charge, surcharge or penalty disclosed in such contract shall be in twelve-point, boldface type of uniform font. Any fee, charge, surcharge or penalty shall not increase prior to the expiration of the contract.

(5) A written contract for the sale of heating fuel or lease of equipment that calls for an automatic renewal of the contract is not valid unless such contract complies with the provisions of this section, section 42-126b and chapter 296a.

(6) The requirement that contracts be in writing pursuant to this section shall not apply to any heating fuel delivery initiated by a consumer, payable on delivery or billed to the consumer with no future delivery commitment, where no fee, charge, surcharge or penalty is assessed, except for any fee, charge or surcharge authorized under subsection (g) of this section.

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(7) The requirement that contracts be in writing pursuant to this section shall not apply to agreements that are solely automatic delivery where: (A) The consumer may terminate automatic delivery at any time and where no fee, charge, surcharge or penalty is assessed for termination, and (B) the dealer providing automatic delivery provides written notice to the consumer the dealer serves under automatic delivery of the method for the termination of automatic delivery, as specified in this subdivision. Such written notice shall be included with each invoice for products subject to automatic delivery. Notice from a consumer to a dealer requesting termination of automatic delivery may be delivered to the dealer by (i) a written request by the consumer delivered by certified mail to the dealer, (ii) electronic mail sent from the consumer to a valid electronic mail address of the dealer, or (iii) electronic facsimile by the consumer to be sent to a valid facsimile number at the dealer's place of business. The consumer shall give notice at least one day prior to the day upon which the consumer desires to terminate automatic delivery. The consumer shall not be responsible for payment of deliveries made by the dealer after such notice has been given, except for deliveries made within one business day after such notice has been given and which were scheduled for delivery by the dealer prior to such notice being given, provided consideration shall be given for weekend and holiday closings or extenuating circumstances not under the control of the dealer.

Sec. 2. Subsection (b) of section 16a-17 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(b) As used in sections 16a-21, as amended by this act, 16a-22a and 16a-22k:

(1) "Associated equipment" means a gas regulator, gas line, sacrificial anode, interconnecting hardware and such other equipment necessary for the installation and operation of a propane tank;

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(2) "Automatic delivery" means the delivery of heating fuel to a consumer by a dealer pursuant to a system determined by the dealer of calculating the heating fuel needs of the consumer, based on the consumer's consumption of heating fuel;

(3) "Cash" means legal tender, a certified or cashier's check, commercial money order or equivalent of such legal tender, check or money order. Cash also includes a guaranteed payment on behalf of a consumer by a government or community action agency, provided no discount is taken for the charge as billed;

(4) "Commissioner" means the Commissioner of Consumer Protection;

(5) "Consumer" means a direct purchaser of heating fuel from a heating fuel dealer, when such fuel is the primary source of heat for residential heating or domestic hot water to one or more dwelling units within a structure having not more than four dwelling units;

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

(7) "Heating fuel" means any petroleum-based fuel used as the primary source of residential heating or domestic hot water, including petroleum products regulated pursuant to chapter 250;

(8) "Heating fuel dealer" or "dealer" means any individual or group of individuals, a firm, partnership, corporation, cooperative or limited liability company that offers the retail sale of heating fuel to a consumer;

(9) "Lessee" means a natural person who rents or leases personal property under a consumer rental or lease agreement;

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(10) "Lessor" means a heating fuel dealer who regularly provides the use of personal property through consumer rental or lease agreements and to whom rent is paid at a fixed interval for the use of such property; [and]

(11) "Notice of termination of automatic delivery" means a notice by a consumer to a dealer providing automatic delivery in which the consumer requests the dealer to terminate automatic delivery; [.] and

(12) "Purchase price" or "commercially reasonable price" means a price that does not exceed the fair market value of the propane tank and associated equipment, as applicable.

Approved June 1, 2016