



General Assembly

Amendment

February Session, 2016

LCO No. 5671



Offered by:

REP. KINER, 59th Dist.
REP. BARAM, 15th Dist.
REP. CARTER, 2nd Dist.

SEN. LEONE, 27th Dist.
SEN. WITKOS, 8th Dist.
SEN. FONFARA, 1st Dist.

To: House Bill No. 5435

File No. 194

Cal. No. 159

"AN ACT CONCERNING CONSUMER OPTIONS TO PURCHASE ABOVE GROUND PROPANE TANKS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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4 the general statutes is repealed and the following is substituted in lieu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

6 (a) (1) No heating fuel dealer shall sell heating fuel or rent or lease a
7 heating fuel tank without a written contract that contains all the terms
8 and conditions for delivery of such heating fuel and the amount of
9 fees, charges, surcharges or penalties allowed under this section and
10 assessed to the consumer under such contract. No such contract shall
11 contain any fees, charges, surcharges or penalties, except for those
12 allowed pursuant to subsections (e), (f) and (g) of this section and for
13 tank rental fees or liquidated damages for violation of the contract

14 terms. No contract for the delivery of heating fuel under this
15 subsection shall include a provision for liquidated damages for a
16 consumer breach of such contract where the liquidated damages
17 exceed the actual damages to the heating fuel dealer caused by such
18 breach. No written contract period for heating fuel shall be for a term
19 greater than thirty-six months. Each heating fuel dealer shall offer
20 consumers the option to enter into a bona fide commercially
21 reasonable contract for a term of eighteen months. A consumer and a
22 heating fuel dealer may agree to enter into a bona fide commercially
23 reasonable contract for a term of less than eighteen months. Longer
24 fuel contract term lengths may be permitted for underground tank
25 consumers, provided the fuel term agreements are concurrent with
26 tank lease agreements as specified in subdivision (2) of this subsection.
27 [Any contract for the rent or lease of a propane fuel tank shall contain a
28 provision informing the consumer of any restrictions concerning such
29 customer's ability to utilize another propane fuel provider and shall
30 require the consumer to initial such provision to indicate awareness of
31 such restrictions.] No provision in a contract that restricts a consumer's
32 ability to utilize another propane fuel provider shall be valid or
33 enforceable unless the consumer has initialed a clear and conspicuous
34 statement in all capital letters of no less than twelve-point boldface
35 type indicating that the consumer is aware of such restriction.

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

48 lessee and a lessor may agree to enter into a bona fide commercially
49 reasonable contract for a term of less than eighteen months. No
50 contract for a tank installed underground shall exceed five years.

51 (3) (A) If a tank installed underground is provided to a consumer, a
52 contract for such tank shall contain a clause providing the consumer
53 with the option to purchase the tank and associated equipment at a
54 price not exceeding a commercially reasonable price at any time
55 during the length of the contract, [but not later than five years after
56 the date of commencement of the contract.] The purchase price for the
57 tank shall be disclosed in the contract and shall not increase before the
58 contract expires. Any waiver of liability or transfer of warranty shall be
59 stated in the contract. No contract for such tank shall be valid or
60 enforceable unless the consumer has initialed a clear and conspicuous
61 statement in all capital letters of no less than twelve-point bold face
62 type, indicating the consumer is aware of such option to purchase the
63 tank and associated equipment. For existing contracts, whether oral or
64 written, where the purchase option or purchase price is silent or
65 unspecified, a contract addendum including the purchase option and a
66 commercially reasonable [purchase] price shall be mailed or delivered
67 to the consumer not later than September 1, 2013. Such contract
68 addendum shall contain a clause providing the lessee with the option
69 of purchasing the tank and associated equipment at any time prior to
70 September 1, 2018. Upon purchase of the tank and any associated
71 equipment, any existing contract obligations pursuant to subdivisions
72 (1) and (2) of this subsection shall terminate immediately, except for
73 guaranteed price plans pursuant to chapter 296a.

74 (B) If a tank installed above ground is provided to a consumer, a
75 contract for such tank shall contain a clause providing the consumer
76 with the option to purchase [the] a new tank and associated equipment
77 at a price not exceeding a commercially reasonable price at any time
78 during the length of the contract, [but not later than five years after
79 the date of commencement of the contract.] The purchase price for the
80 tank, associated equipment and associated installation charges shall
81 [not exceed the fair market value for such tank and shall] be disclosed

82 in the contract and not increase before the contract expires. Any waiver
83 of liability or transfer of warranty shall be stated in the contract. [For
84 existing contracts, whether oral or written, where the purchase option
85 or purchase price is silent or unspecified, a contract addendum
86 including the purchase option and a purchase price of not more than
87 the fair market value shall be mailed or delivered to the consumer not
88 later than September 1, 2016. Such contract addendum shall contain a
89 clause providing the lessee with the option of purchasing the tank and
90 associated equipment at any time prior to September 1, 2021.] No
91 contract for such tank shall be valid or enforceable unless the
92 consumer has initialed a clear and conspicuous statement in all capital
93 letters of no less than twelve-point bold face type, indicating that the
94 consumer is aware of such option to purchase a new tank and
95 associated equipment. Upon purchase of the tank and any associated
96 equipment, any existing contract obligations pursuant to subdivisions
97 (1) and (2) of this subsection shall terminate immediately, except for
98 guaranteed price plans pursuant to chapter 296a.

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

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

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

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

138 Sec. 2. Subsection (b) of section 16a-17 of the general statutes is
139 repealed and the following is substituted in lieu thereof (*Effective July*
140 *1, 2016*):

141 (b) As used in sections 16a-21, as amended by this act, 16a-22a and
142 16a-22k:

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

146 (2) "Automatic delivery" means the delivery of heating fuel to a

147 consumer by a dealer pursuant to a system determined by the dealer of
148 calculating the heating fuel needs of the consumer, based on the
149 consumer's consumption of heating fuel;

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

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

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

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

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

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

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

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

177 property; [and]

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

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

This act shall take effect as follows and shall amend the following sections:

Section 1	July 1, 2016	16a-21(a)
Sec. 2	July 1, 2016	16a-17(b)