



General Assembly

**Amendment**

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LCO No. 3832

**\*SB0029903832SD0\***

Offered by:

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

SEN. WITKOS, 8<sup>th</sup> Dist.

REP. BARAM, 15<sup>th</sup> Dist.

REP. FRITZ, 90<sup>th</sup> Dist.

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

REP. SANTIAGO, 84<sup>th</sup> Dist.

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4 repealed and the following is substituted in lieu thereof (*Effective July*  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 Section 16a-23m of the general statutes is repealed and the  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, provided the amount required to be paid as the  
25 first payment is not greater than fifty per cent of the remaining amount  
26 due under the plan;

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

31 ~~[(2)]~~ (3) "Commissioner" means the Commissioner of Consumer  
32 Protection;

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

38 ~~[(4)]~~ (5) "Forwards contract" means an agreement between two

39 parties to buy or sell an asset at a certain future time for a certain price;

40 [(5)] (6) "Futures contract" means a standardized, transferable,  
41 exchange-traded agreement that requires delivery of heating fuel at a  
42 specified price on a specified future date;

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

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

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

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

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

68 [(11)] (12) "Maintain" means retention of the balance, measured in

69 gallons or other accepted units of measure, of heating fuel that remains  
70 to be delivered to consumers who are party to a guaranteed price plan  
71 contract;

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

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

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

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

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

98 (c) Each person, firm or corporation seeking registration as a heating  
99 fuel dealer shall apply annually for a certificate of registration with the

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

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

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

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

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

131 (a) A contract for the retail sale of heating fuel that offers a  
132 guaranteed price plan or a prepaid guaranteed price plan shall be in  
133 writing. [and the] The terms and conditions of such guaranteed price  
134 plan or prepaid guaranteed price plan shall be disclosed [. Such  
135 disclosure shall be] in plain language and shall immediately follow the  
136 language concerning the price or service that could be affected, if  
137 applicable, and shall be printed in no less than twelve-point boldface  
138 type of uniform font.

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

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

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

160 (2) A heating fuel dealer shall, not later than five business days after  
161 entering into a guaranteed price plan contract, [that is not prepaid,]  
162 obtain heating fuel physical inventory to which such dealer holds title,

163 heating fuel futures or forwards contracts, physical supply contracts or  
164 other similar commitments the total amount of which allow such  
165 dealer to purchase, at a fixed price, heating fuel in an amount not less  
166 than eighty per cent of the maximum number of gallons or amount  
167 that such dealer is committed to deliver pursuant to all guaranteed  
168 price plan contracts entered into by such dealer.

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

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

184 (f) Any guaranteed price plan contract or prepaid guaranteed price  
185 plan contract shall indicate, in clear and specific language: (1) The  
186 amount of funds paid by the consumer to the heating fuel dealer under  
187 such contract, (2) the maximum number of gallons of heating fuel  
188 committed by the dealer for delivery to the consumer pursuant to such  
189 contract, (3) that performance of such guaranteed price plan contract  
190 or prepaid guaranteed price plan contract is secured by one of the  
191 options described in subsection (d) of this section, and (4) if the price of  
192 heating fuel is subject to fluctuation, the circumstances under which  
193 the price may fluctuate. Any such contract shall provide that the  
194 contract price of any undelivered heating fuel owed to the consumer  
195 under the contract, on the end date of such contract, shall be

196 reimbursed to the consumer not later than thirty days after the end  
197 date of such contract unless the parties to such contract agree  
198 otherwise.

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

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

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

224 The Department of Consumer Protection may suspend or revoke  
225 any registration issued under section 16a-23m, as amended by this act,  
226 if the holder of such registration is grossly incompetent, engages in  
227 malpractice or unethical conduct or knowingly makes false,



228 misleading or deceptive representations regarding such holder's work,  
229 violates any provision of section 16a-23n, as amended by this act, or  
230 section 7 of this act, fails to comply with any subpoena issued pursuant  
231 to this section or violates any regulations adopted under section 16a-  
232 23q. Before any such registration is suspended or revoked, such holder  
233 shall be given notice and opportunity for hearing as provided in  
234 regulations adopted by said commissioner in accordance with the  
235 provisions of chapter 54. Said commissioner may compel by subpoena,  
236 at his or her discretion, the production of any documents from any  
237 heating fuel dealer or from any provider of futures or forwards  
238 contracts, physical supply contracts or other similar commitments or a  
239 surety bond, regarding compliance with the provisions of sections 16a-  
240 23m to 16a-23r, inclusive, as amended by this act, or section 7 of this  
241 act.

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

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

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

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

260 dollars for a third or subsequent offense occurring not more than three  
261 years after a prior offense.

262 Sec. 6. Section 16a-23s of the general statutes is repealed and the  
263 following is substituted in lieu thereof (*Effective July 1, 2014*):

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

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

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

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

288 "DISCLOSURE NOTICE CONCERNING CREDIT CARD  
289 PAYMENT OPTION. If you pay by credit card for a prepaid  
290 guaranteed heating fuel price plan contract, you may be entitled to

291 recovery payments pursuant to the federal Fair Credit Billing Act or  
 292 your credit card company's terms and conditions if heating fuel is not  
 293 delivered to you in accordance with the contract."

294 Sec. 8. (NEW) (*Effective from passage*) Not later than June fifteenth  
 295 each year, the Commissioner of Revenue Services shall notify the  
 296 Department of Consumer Protection of any outstanding tax  
 297 delinquencies owed to the state by any heating fuel dealer, as defined  
 298 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