HB 1395 - AS INTRODUCED

2024 SESSION

24-2661
10/08

HOUSE BILL ***1395***

AN ACT relative to home heating oil and propane contracts.

SPONSORS: Rep. Rung, Hills. 12; Rep. N. Murphy, Hills. 12; Rep. Healey, Hills. 12; Rep. Shurtleff, Merr. 15

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill adds requirements for consumer contracts and pre-buy fees for home heating oil, kerosene, or liquefied petroleum gas.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to home heating oil and propane contracts.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Petroleum Sales Contracts. Amend RSA 339:79 to read as follows:

339:79 Requirements for Guaranteed Price Plans**,** [~~and~~] Prepaid Contracts for Petroleum***, and Contracts for Petroleum***.

I. A contract with a consumer that offers a guaranteed price plan, requires prepayment by the consumer, or [~~similar~~] ***other*** contracts shall be in writing and shall disclose the terms and conditions of the plan. A solicitation for such a guaranteed price plan that could become a contract upon response from a consumer shall also be in writing with the terms and conditions, ***including any pre-buy fees or ancillary charges,*** disclosed in plain language. ***Any contract must also include:***

(a) Dealer contact information for written or electronic communication in the event a consumer makes notification to the dealer for discontinuation of the contract; and

(b) The contact information for the New Hampshire department of justice consumer protection hotline.

II. A contract for the retail sale of home heating oil, kerosene, or liquefied petroleum gas to a consumer shall also indicate the total amount of money to be paid by the consumer, the gallons committed by the fuel dealer to be delivered under the contract, the price per gallon, the payment terms, ***tank rental fee and other ancillary fees,*** the duration of the contract, the remedies enforceable by the dealer against a non-performing consumer, and that the contract is secured as provided in this section. The information required by this section shall be in plain language and shall be printed in no less than 12-point boldface type of uniform font after the price of service described.

III. A contract that requires prepayment by the consumer shall comply with paragraphs I and II of this section. Such contract also:

(a) Shall not be advertised or solicited by the dealer in any manner to advertise, solicit, or promote the details of prepaid contracts being offered to consumers, nor shall the dealer solicit or promote pre-buy services independent of all the services offered by the dealer, earlier than May 1 or later than October 31 of the year in which the heating fuel season begins. Such contracts may be signed prior to May 1 only at the request of the consumer.

(b) Shall require dealers to reimburse consumers at the contract price for any undelivered pre-purchased fuel ***and any prorated pre-buy fees***, within 30 days after the contract ends, unless the dealer and consumer agree to different terms.

(c) Shall include a clear explanation of the means by which the dealer will meet the obligations of the contract for the entire contract period, including supplier agreements, futures contracts, bonding, a line of credit or liquid product inventory.

(d) Shall not falsely claim coverage. Any dealer who falsely claims coverage or fails to maintain coverage until the completion of the contract shall be guilty of a class A misdemeanor, in addition to other penalties as provided in paragraph VI.

IV. No home heating oil, kerosene, or liquefied petroleum gas dealer shall enter into a prepaid contract to provide home heating oil, kerosene, or liquefied petroleum gas to a consumer unless that dealer has, within 7 days of the acceptance of the contract, obtained and maintained any one of the following:

(a) A firm commitment in the form of a futures contract or other commitment that guarantees that the dealer may purchase, at a fixed price, heating oil, kerosene, or liquefied petroleum gas in an amount not less than 75 percent of the maximum number of gallons that the dealer is committed to deliver pursuant to all prepaid contracts entered into by the dealer. The amount of such futures contract may be reduced to reflect any amount of home heating oil, kerosene, or liquefied petroleum gas already delivered to and paid for by the consumer;

(b) A surety bond, made payable to the attorney general, in an amount not less than 50 percent of the total amount of funds paid to the dealer by consumers pursuant to prepaid heating oil, kerosene, or liquefied petroleum gas contracts;

(c) A letter of credit, made payable to the attorney general, from an FDIC-insured institution in an amount that represents 100 percent of the cost to the dealer of the maximum number of gallons that the dealer is committed to deliver pursuant to all prepaid contracts entered into by the dealer. The cost shall be calculated at the time the contracts are entered into; or

(d) A liquid product inventory of home heating oil, kerosene, or liquefied petroleum gas in an amount equal to 75 percent of the outstanding volume in gallons that the dealer is obligated to deliver under the terms of prepaid contracts in force.

V. Paragraph IV of this section shall not apply to budget plans under which consumers pay their yearly heating costs by making equal monthly payments.

V-a. A home heating oil, kerosene, or liquefied petroleum gas dealer who offers prepaid contracts under this section shall register the dealer's intent to offer such contracts with the secretary of state by May 1 of each year. Registration shall be on a form provided by the secretary of state and shall indicate which securitization method or combination of methods listed in paragraph IV are used to secure the contracts.

V-b. A home heating oil, kerosene, or liquefied petroleum gas dealer who offers prepaid contracts under this section shall file an annual report with the secretary of state by December 1 of each year demonstrating how the dealer has satisfied the requirements of this section, including how

the prepaid contracts are secured. The report shall be made on a form provided by the secretary of state. The form shall conspicuously bear the warning that making a false statement on the form shall constitute an unfair or deceptive act or practice in violation of RSA 358-A. The report shall be signed by the dealer. If the dealer is a corporation, the report shall be signed by either the president or an officer of the corporation and shall include a list of all of the members of the board of directors of the corporation. The secretary of state may not charge a fee for the form or for filing the report.

VI. ***If a consumer provides electronic or written notification of discontinuance of the contract to a home heating oil, kerosene, or liquefied petroleum gas dealer from which they are renting the storage tank, the dealer shall have 60 days from the date of notification to remove their tank or make every reasonable attempt to transfer ownership to the consumer or another dealer.***

VII. No dealer may charge a rental fee for a propane tank that is owned by another company or the consumer.

VIII. Failure to comply with this section shall constitute an unfair or deceptive act or practice in violation of RSA 358-A.

2 Effective Date. This act shall take effect 60 days after its passage.