

**PA12-076**

SB0207

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**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**GENERAL  
LAW  
PART 3  
555 – 824**

**2012**

1  
mb/ch/gbr GENERAL LAW COMMITTEE

March 6, 2012  
11:00 A.M.

CHAIRMEN: Senator Doyle  
Representative Taborsak

MEMBERS PRESENT:  
SENATORS: Leone, Witkos

REPRESENTATIVES: Baram, Rebimbas,  
Altobello, Aman,  
Bacchiochi, D'Amelio,  
Esposito, Kissel, Musto,  
Nafis, Nicastro, Reed,  
Robles, Tallarita

REP. TABORSAK: We're going to convene the public hearing. Just a brief summary of the basic rules for folks that haven't been here before. We'd ask that you keep your testimony to right about three minutes, there will likely be follow-up questions asked by the committee members, so you will be able to get your testimony in. We will also take a look at any written testimony that's provided to the committee.

The first hour, if it takes a full hour, will be dedicated as we customarily do, to hearing from public officials that are here. After the first hour if there's still public officials left to speak, we'll then alternate between members of the public and public officials.

With that, I'm just going to go ahead and start off the public official list. And our first speaker is Commissioner William Rubenstein.

SB207

COMMISSIONER WILLIAM RUBENSTEIN: Good morning,

Senator Doyle, Representative Taborsak, Senator Witkos, Representative Rebimbas and the honorable members of the General Law Committee. I'm William Rubenstein, Commissioner of Consumer Protection.

Thank you for giving me the opportunity to appear before you today. It's my pleasure to offer testimony in support of Senate Bill 207, an act concerning residential heating oil and propane contracts.

This proposal originated in the Department of Consumer Protection, so let me begin by thanking you for raising this bill for your committee's consideration for the public hearing today. As you're probably aware, businesses engaged in the retail sale of home heating oil or propane must hold registrations with the Department of Consumer Protection, and consequently my agency is responsible for receiving and investigating consumer complaints against these businesses.

And indeed we do receive a large number of consumer complaints every year regarding confusing contract provisions, and allegations of illegal surcharges and deceptive practices against these companies. Some of these complaints have merit, while others are not explicit violations of law.

However, one thing is clear. There is a great deal of confusion and customer dissatisfaction with the present system. To that end, the department feels this is the right time to make meaningful changes in the residential heating marketplace that will benefit consumers of our state, and lead to a reduction in the number of complaints DCP must respond to.

Before describing the specific changes in our proposal, I'd like to call your attention to the recent work of the legislature's Program Review and Investigation Committee on this topic. Last year that committee undertook an extensive review of Connecticut's residential propane and heating marketplace, and made recommendations for improvement in how we deal with propane issues.

That report noted the work of the Department of Consumer Protection in documenting consumer complaints, as well as our previous recommendations to improve the system. The report concluded with a list of recommended statutory changes to improve the marketplace, and it should be noted that the proposal before you today includes the majority of those recommendations.

We applaud the work of the Program Review and Investigation Committee staff, and are pleased to report to you that its recommendations in our proposed bill are substantially aligned.

With that, the bill before you proposes to make the following changes: First, it requires that all contracts for residential sale of heating fuel, that's heating, home heating oil and propane, be in writing and contain all the terms and conditions of delivery.

All fees, changes, surcharges and all penalties must be identified in the contract and the contract may not include any damage charges payable to the dealer beyond the dealer's actual damages that may be caused by a consumer's breach. I would add that our proposal does not require that all customers then go into a written contract with the dealer, but those consumers that prefer to

engage a dealer for cash on delivery, they may continue to do so at their option.

The written contract may not have an automatic renewal clause unless the consumer is given meaningful right to terminate at the end of the initial term or subsequent anniversary date. The proposed bill gives the consumers the same protections that are afforded already for all other types of consumer contracts. Written contracts that include references to guaranteed price plans that refer to such terms as capped or maximum or not to exceed or similar terms must not increase above the specified price, and must say in clear and specific language how and under what circumstances the price to customers may decrease during the term of the contract period.

Further, guaranteed price contracts would not include an automatic renewal provisions. The maximum length of time for a contract between customer and dealer shall be 18 months. In the case of a contract with a dealer installs an underground tank, though, the contract length may not exceed five years in recognition of the excessive costs in installing and removing underground tanks.

The contracts must include an option to buy provision, allowing the customer to purchase any leased underground tank and associated equipment for a specified price and that price must be contained within the contract.

Refer the proposed specifically committing the use of electronic signature for heating oil contracts, and the proposed bill also permits that the written contract requirement can be satisfied by telephone acknowledgment process if the retail fuel seller has previously

provided the customers with written notification of the terms and conditions, if the use an interactive voice response system, provided they keep a recording of the consumer's agreement and provide a confirmation letter of the same to the customer. Those are the most significant changes we proposed, but the bill also makes a number of minor technical and conforming changes as well. Taken as a whole, we believe that the proposal will bring significant improvement to the home heating fuel marketplace, we have listened to Connecticut consumers and responded with a fair and comprehensive package that will lead to improved customer satisfaction with their home heating dealer.

Thank you today for the opportunity to comment on this bill. We look forward to working with the committee members to move this important bill forward, and I'd certainly be happy to answer any questions that you may have.

REP. TABORSAK: Thank you, Commissioner. Are there any questions here from the committee? Senator Kissel and Representative Baram?

SENATOR KISSEL: Thank you very much, Chairman Taborsak. Commissioner, good to see you again.

COMMISSIONER WILLIAM RUBENSTEIN: And it is good to be here.

SENATOR KISSEL: I'm trying to recall because back when that report was promulgated by Program Review and Investigations I served on that the last several years, and going out into my district and talking to various folks involved in either home heating oil or propane, they seem to draw a distinction, especially the

propane folks, saying that our business is a little different because quite often the large tanks are fixed to the facility and those large tanks are sometimes owned by the company.

They feel that they have a duty to maintain those tanks and keep them in working order, as opposed to home heating oil, where if you want to just switch suppliers, the suppliers don't have a vested interest in the tank or the furnace or anything else like that typically. There may be some distinctions but so it's my understanding that the propane industry is a little bit different than the home heating oil industry and I'm just wondering if you could expand upon that if I'm on the right track or if there's -- you don't see any distinction at all?

COMMISSIONER WILLIAM RUBENSTEIN: Well, there are distinctions in the ability of consumers to shop around and move between suppliers in the sense that you mentioned. There is a state law, fire Marshall prohibition that prohibits the -- someone who does not own the tank from refilling the tank.

That means that if the propane dealer owns the tank, which is often the case, cause it's leased to the consumer, that the consumer is not at ready liberty to call up a different supplier to fill that tank. So there is a difference there and historically propane customers have felt more captive to the suppliers than home heating oil dealers.

But there's not all that much distinction in the desire of consumers to understand the terms and conditions of what the charges will be both for the price per gallon of their fuel and for any delivery surcharges or liquid

related damages. So the bill addresses both home heating fuel and propane by providing that transparency to the consumers.

SENATOR KISSEL: And based upon your information, if consumers have felt captive in the propane side because the propane companies own the tanks, is there anything in this bill that will address that or can we expect to see some of those complaints still out there, but what your proposal is based upon the PRI study, is that you want at least the terms clearly defined, and basically the contractual rights spelled out very precisely and offer to give consumers that window towards the end of their contracts to make choices, but there's nothing in here that says that those tanks are now going to revert to the consumer or anything else like that.

COMMISSIONER WILLIAM RUBENSTEIN: What the bill, the proposed bill does is have a statutory maximum on the length of the term of the tank lease contract, so which under the proposed bill is no more than 18 months, which allows the consumer to make a choice at the end of 18 months for an above-ground tank or the end of 18 months for an underground tank.

A conscious choice as to whether or not they want to continue that lease arrangement with their current supplier or seek out a different arrangement with a different supplier.

So the bill, in the past we've seen, particularly for (inaudible) tanks, contract terms as long as five or seven months for the lease, or five or seven years for the lease of these tanks, which locks in consumers for that entire period of time so that the statute addresses the consumer choice issue in this regard by shortening the permissible length of

time for those contracts.

SENATOR KISSEL: One last question, Mr. Chairman. But essentially at the end of the day even if this bill moves forward, despite the fact that the term would be maximized at 18 months, at that time the consumer has to decide whether they want to switch suppliers. And I'm talking about the propane side.

North Central Connecticut has a lot of propane companies, and they still would have to determine whether they want to have those tanks removed. The consumer under fire Marshall laws can't fill up the tank themselves. It's not like your backyard barbecue, and so they are going to have those tanks removed and another supplier come in and replace with a new set of tanks there may be additional charges with that, but nothing in here changes any of that, it just gives a much narrower window for or a narrower timeframe for the contracts to run.

COMMISSIONER WILLIAM RUBENSTEIN: And a transparency at the terms and conditions termination, yes.

SENATOR KISSEL: Thank you, Commissioner, thank you, Mr. Chairman.

REP. TABORSAK: Representative Baram?

REP. BARAM: Thank you, Mr. Chairman. Welcome, Commissioner. Just one quick question. On page two of your written testimony, paragraph number one, there seems to be a contradiction -- I'm sure there isn't but I just wanted to give you a chance to offer clarification.

In your first sentence you say that it is

required that all contracts be in writing, but then in the second paragraph it says it does not require that all customers enter into a written contract if you have cash on delivery.

So I'm just wondering if you could clarify that possible contradiction.

COMMISSIONER WILLIAM RUBENSTEIN: The exception to the written contract requirement in the bill is where there's a consumer initiated call for a cash on delivery one-time payment with no future obligation to purchase. So if it's a one-time transaction as opposed to an ongoing relationship with the heating oil, a supplier, propane supplier, although that's less common given the tank problem.

So what I intended to convey there was that the written contract requirement does not apply in that one-off relationship situation where there's a COD payment.

REP. BARAM: And lastly, this is only pertinent to residential sales, if there was a commercial sale is commercial also exempted from this regulation?

COMMISSIONER WILLIAM RUBENSTEIN: This is for, yeah, this is a consumer bill, so it requires primarily for personal household use.

REP. TABORSAK: Any further questions? Senator Witkos?

SENATOR WITKOS: Thank you, Mr. Chairman. Commissioner, you state in the testimony that a lot of the complaints that the department receives have to do with the confusing contract provisions and the allegations of illegal surcharges and deceptive practices.

And through your investigative division, did you find that these allegations were in fact true as far as illegal surcharges and deceptive practices and that's why we're bringing forward these changes to the bill today, or is it because maybe we didn't find it but we felt we wanted to clarify some of the contractual languages?

COMMISSIONER WILLIAM RUBENSTEIN: Certainly many of the complaints have merit and have had merit in the past. I only meant to indicate in my testimony that, you know, not every complaint we get at the department, you know, bears out as some -- any problem.

So many of the complaints have merit, and some of the complaints we think have merit but no legal footing. That is that there are abuses in the marketplace that ought to be addressed and can be clearly addressed by having clarity and transparency in the contracting process.

SENATOR WITKOS: And that clarity to the contract process is addressed in this bill?

COMMISSIONER WILLIAM RUBENSTEIN: That's correct.

SENATOR WITKOS: And my last question, Mr. Chairman, line 340 of the bill, I think it hurts consumers, but I wanted for you to comment on that. Basically I'll read to you, "Home heating oil," the old language says, "A home heating oil or propane gas dealer that advertises a price shall offer such a price for a period of no less than 24 hours."

And then this other language. We've taken that out, that operating prices as the institute that has to be a guaranteed price plan. So somebody that is a we'll call customer that says, hey I looked at your

website today and you're offering oil or propane at this price, can I still get it for that? They no longer have that 24-hour window because the way I read it and interpret it it's only for a guaranteed price plan. So could you just comment on that?

COMMISSIONER WILLIAM RUBENSTEIN: You know, a guaranteed price is defined as a price plan that describes -- they're offering heating fuel at a guaranteed future price, you know, so I think the terminology there was just to tie back into the definition, which would capture the advertised price for a sale at a contractual price in the future.

So it's just -- I think (inaudible) to tie it back into the definition, but not to change the breadth of the statute.

SENATOR KISSEL: Yeah, that's not very clear to me, and I would like to note that maybe we could work on that language if that's the intent. And my last question is I heard some complaints from consumers that have propane delivered to their homes, and because they've installed a generator because of what we experienced in the state this past fall, that they're being taxed because they're, the delivery company that brings the propane to the home is quoting it within their records that they are -- this is for generator purposes but they may cook on it as well, the heat.

And they're being charged a tax because of the generating electric tax. Is there anything that your department is doing to address those concerns for homeowners that have taken positive steps to making sure that they're self sufficient if we ever have cause -- the loss of electricity before that or getting

charged this tax that also have cooking by propane?

COMMISSIONER WILLIAM RUBENSTEIN: The taxing position on any energy is not within my department's jurisdiction, so I'm not sure that we would be in a position to do anything about that. What we can be -- what we can do is ensure that the appropriate consumer notifications are given in terms of what their usage how the companies would classify their usage, at least in their charges.

But in terms of developing a policy for when energy use is taxed and when it isn't taxed, we don't have any jurisdiction on that.

SENATOR KISSEL: Are you aware of how that is determined? Is it -- you have jurisdiction over the propane industry for the deliverance of propane and for the contractual requirements. If I was a homeowner and I entered into a contract with ABC Propane and it's to cook my food and then after what happened this last fall I decided I'm going to get a generator now and since I'm already using propane for my cooking I'm just going to -- it makes sense to get a fuel (inaudible) I'll just use propane.

And then somebody decides on their own that we're coding Witkos' household now as a generator because he's using it for his -- to generate electricity possibly in case we lose power. Who has control over that, that you're aware of, if it's not your agency?

COMMISSIONER WILLIAM RUBENSTEIN: We would be -- the contractual provisions that we have in it still would require that the propane company in this case identify the terms and conditions for delivery and those terms and conditions,

if they were going to walk through their charge based upon types of usage would have to be spelled out in contracts or they couldn't do it.

In terms of -- I'm not familiar with the particular tax issue that you're addressing, so I can't tell you who it would impose the requirement, if any, on a propane company as to how they would classify particular usage.

SENATOR KISSEL: You may not be prepared to answer this but I'm going to ask it anyways and maybe we can circle back later on. If the bill had language in it that said for a residential homeowner that happened to fuel a generator through propane that they would not be subject to a tax, a generator service tax, what would your position be?

COMMISSIONER WILLIAM RUBENSTEIN: I would ask you to address that to Commissioner Sullivan and the Office of Policy and Management, Secretary Barnes. They'd probably be able to answer that question much better than I.

REP. TABORSAK: Senator Doyle.

SENATOR DOYLE: Thank you, Mr. Chairman. Good morning, Commissioner.

COMMISSIONER WILLIAM RUBENSTEIN: Good morning.

SENATOR DOYLE: I just want some background in terms of -- is this, would you say the number of complaints in terms of the oil contracts and overall oil delivery is very high at your department?

COMMISSIONER WILLIAM RUBENSTEIN: You know, it's hard to figure out what the comparative measure is, but it's significant, and the

program review report, just on the propane side, you know, we've tracked our complaints for the past, you know, five-six, seven years. And, you know, it had been increasing over time.

You get an excess every winter, every year of 100 complaints on the propane side, and a significant number close to that on the heating oil side, and of course, it increase dramatically whenever you have spikes in temperature during the heating season.

So from year-to-year it may be different. You know, this is a pretty -- been a pretty mild winter, so the kinds of complaints we get are not as dramatic as when people are facing more extreme conditions.

SENATOR DOYLE: So you're comfortable saying it's a serious problem in terms of the number of complaints at your department?

COMMISSIONER WILLIAM RUBENSTEIN: It is, and it takes up a significant amount of resource that we should be committing to other things, just, you know, first just taking in the consumer complaints, explaining to consumers what their rights are and having to investigate when it happens.

And you know, for us it would be a lot easier if consumers knew up front exactly what all the terms and conditions were of their contract, and that they could make meaningful choices going into the process rather than having experience be a hard teacher.

SENATOR DOYLE: And with the language before us, did you consult the industry or is it pretty much more -- I'm just curious. Did you consult them or is it more pure DCP proposal?

COMMISSIONER WILLIAM RUBENSTEIN: We've been in consultation with the industry, but our home heating oil folks and the propane folks, for a few years on this subject, and you know, we've come to a place where we think we've satisfied the concerns out there, but yet stay true to the consumer need.

SENATOR DOYLE: I assume they probably have not endorsed it but they --

COMMISSIONER WILLIAM RUBENSTEIN: You know, I haven't been -- fairly short in this job. You know, I can tell you that it's a rare bird where you get 100 percent buy-off on anything, but I think we've addressed the major problems.

SENATOR DOYLE: Okay. Thank you. Thank you, Mr. Chairman.

REP. TABORSAK: Thank you, Senator. Just a question or two, Commissioner. A number of people have asked you about the legal surcharges and deceptive practices, could you just give us a flavor for the types of complaints, you know, what sort of practices you're seeing that are a real problem, you know, whether it's consumers being misled on renewal provisions or of that nature.

Could you give us a little more detail on that? It would be helpful for us to understand what's going on out there.

COMMISSIONER WILLIAM RUBENSTEIN: Well, you know, it really runs the gamut depending on what the customer's needs are, but we get complaints where customers didn't understand what price that would be charged at the time of delivery.

They were -- and you know, whether or not the change in the usage would change the price that they pay, whether that there would be delivery charges for certain gallon amounts or different deliveries at odd hours. People who had capped prices or guaranteed maximum price contracts were not necessarily aware that there were circumstances where the price of the commodity may actually drop and they would still be charged the maximum cap.

People who had prepaid oil contracts who weren't getting delivery because their supplier didn't take the proper precautions under the statute, people thought they were on automatic delivery when they didn't believe they wanted to be on automatic delivery, didn't understand that. I mean, there's a whole range of different practices, that are all attempted to be addressed in this proposed bill, and we get any and all of those complaints every year.

REP. TABORSAK: Thanks for that clarification. I'd also like to ask you about in your points here, in your testimony, it talks about how there's going to be a prohibition on -- it appears to me anyway that there would be some sort of a prohibition on liquidated damages provisions.

Is that correct? Am I understanding that correct? Because the language here says the contract may not include any damage charges payable to the dealer beyond the actual damage. So what that says to me is that if a consumer disputed, and maybe I'm misreading this, disputed a contract that the retailer would have to take them to court and actually prove their damages in order to, I guess, obtain any sort of penalty of damages against the consumer. Is that right?

COMMISSIONER WILLIAM RUBENSTEIN: Liquidated damages on the statute, which would have to be limited to actual damage to the (inaudible) this is not an unusual provision in consumer law. There are several other provisions in our statutes that protect consumer contracts against liquidated damage provisions that have no relationship to the actual damages that a consumer may suffer. So it just becomes a penalty rather than a compensation for contractual loss.

REP. TABORSAK: Just to clarify, they would be able to have liquidated damages provisions in their contracts, is that correct?

COMMISSIONER WILLIAM RUBENSTEIN: That is correct. Yeah, it would just be measured by the likelihood of actual damage.

REP. TABORSAK: Thank you for that clarification. Is there any other questions? Representative Reed?

REP. REED: Thank you, Mr. Chairman. Good morning, Commissioner.

COMMISSIONER WILLIAM RUBENSTEIN: Good morning.

REP. REED: Just a question, because I know we're dealt with this issue before. Who services the tanks? Can you get a new supplier? So in your -- I'm trying to read through the bill and discern every little component of it.

In what you're proposing, if a consumer exercises the option to buy the tank, may they also change suppliers?

COMMISSIONER WILLIAM RUBENSTEIN: If you exercise the option to buy the tank and their

contractual term has expired, they are free to change suppliers at will, and in fact limit -- can either shop around and have a COD only relationship with various dealers or enter into supply contracts at whatever length they determine appropriate.

REP. REED: Thank you, and one quick follow-up. So I'm remembering, I hope I'm remembering in the past, the propane dealers have expressed concerns to us that the quality of people who, you know, their company has the best people. So they're concerned about another company coming in and utilizing the tank and doing it incorrectly because they have variables in the way they service their tanks, that kind of thing.

Is the department very confident that this can all be done safely?

COMMISSIONER WILLIAM RUBENSTEIN: Yes. We have confidence that anybody registered with us to deliver and sell propane has appropriate technicians to know how to fill propane tanks and to do the appropriate leak tests when appropriate.

So the same care that any propane dealer would take in filling their own tank is the same care that we would expect them to take in filling anybody else's tank.

REP. REED: Thank you, Commissioner. Thank you, Mr. Chairman.

REP. TABORSAK: With that, Commissioner, thank you for your testimony.

COMMISSIONER WILLIAM RUBENSTEIN: Thank you.

REP. TABORSAK: Representative Kim Rose.

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**GENERAL  
LAW  
PART 4  
825 – 1093**

**2012**

And, as I had mentioned, I have a poster here of what the bongs and scales and everything looks like. This is actually from a local convenience store in Groton if you want to take a look at it.

SENATOR DOYLE: Do you have multiple copies or just one?

KERENSA MANSFIELD: I do have multiple copies.

SENATOR DOYLE: If you could give them to clerk so we could get them to committee.

KERENSA MANSFIELD: Okay.

SENATOR DOYLE: Any further -- any questions from the committee?

Seeing none, thank you very much.

KERENSA MANSFIELD: Thank you.

SENATOR DOYLE: Next speaker is Chris Herb, then Lori Lee, Michele Devine, Tim Phelan, Scott Silvester, Brian Goldwyn.

CHRISTIAN A. HERB: Good afternoon. My name is Chris Berb. I'm the vice president of the Independent Connecticut Petroleum Association. We represent 576 family-owned and operated heating oil deals, motor fuel markets and their associates businesses in Connecticut. ICPA members employ over 13,000 people who provide 650,000 residents with home heating oil.

I'm here today testify on Senate Bill 207, AN ACT CONCERNING RESIDENTIAL RETAIL HEATING OIL AND PROPANE CONTRACTS. This is a bill -- the majority of the bill has been before you, I

think this is the fourth or fifth year. We are largely in favor of -- of most of what is in the bill as it pertains to electronic contracts. In our testimony, we did submit some language that pertains specifically to Section 1 -- Section 2 of the bill that end requiring 600 heating oil dealers to issue 400,000 new contracts that do not exist today.

This is new language that has not been in the bill before. As I said, we've been supportive of this bill in its entirety in the past, but unfortunately a little tweak of the language would literally put 400,000 customers in a position where they would have to enter into contracts that they didn't do before.

We believe that there is a way to solve the problem that Consumer Protection and some consumers have brought before you today. Basically what the problem is that a customer who is automatic delivery who ends up switching heating oil dealers ends up having the existing heating oil top off the tank and it results in typically a complaint to consumer protection. Under those circumstances normally, it ends up in small claims court. An unjust enrichment claim is brought and typically the heating oil dealer wins even though the customer wanted to switch dealers. They just didn't follow the particular protocol.

The language that we've submitted would require one business day's notice in writing, either certified mail, e-mail, fax, something where there's a signature on it and if the dealer decided -- if the existing dealer decided to top off, they would forego their right to be able to pursue an unjust enrichment claim. So you literally would be giving oil for free to the customer. I don't

think you typically see an oil association come up here and say that dealers should have to give oil away, but it is a better solution than requiring 400,000 consumers to enter into contracts. There is additional language that we've included as an amendment. We wanted to add education requirements for heating oil dealers to pursue before they obtain their heating oil dealer registration or if they were renewing heating oil dealer registration, they would have to take certain educational requirements that include antitrust law, state and federal taxes, futures in hedging and contract law.

We think that having these educational requirements would strengthen the marketplace, protect consumers and address some of the -- a lot of -- most of the concerns that the commissioner raised earlier. If you have any questions, I'd be happy to answer them.

SENATOR DOYLE: Thank you.

Any questions?

Senator Kissel.

SENATOR KISSEL: Thank you, Mr. Chairman.

Good afternoon. What's the deal with topping off? How does that work in injustice and what sort of happens out there?

CHRISTIAN A. HERB: You know, typically, it's not a very common occurrence. It has happened enough where the Department has to intervene, but typically what happens is if I have -- if I'm -- if I'm delivering oil to you and you want to switch to Representative Rebimbas' oil company, I send my truck out, I top you off and I send you a bill for the 40, 60, 80

gallons that the top-off is. A consumer complains and says, you know, I didn't order that, I switched dealers, and typically that would end up in small claims court. And in more times than not, the small claims court says that it's an unjust enrichment and the customer has to -- has to pay for it.

What we're saying is that there is a way to solve that. If there's language in the law that says that the dealer has to forego their unjust enrichment claim if there is -- if there is a written cancellation given one business day, obviously, for logistics to stop a truck that might on the road -- someone can't just pick up the phone and say we're canceling -- that we would stop this in its track. That even though this is a -- we believe a small problem in the marketplace, it would end it all together because there's no heating oil dealer that wants to get stuck with potentially hundreds of dollars of exposure for topping someone off when they switch dealers.

SENATOR KISSEL: Thank you.

Thank you, Mr. Chairman.

SENATOR DOYLE: Thank you.

Any further questions?

Representative Rebimbas.

REP. REBIMBAS: Thank you, Mr. Chair.

Thank you for your testimony. I guess I just want to the flesh that out because I think the purpose of it is, again, to address these issues that the consumers have brought to the consumer protection department's attention. I

mean, when you say the written cancelation, would that be sufficient to be an e-mail, a fax letter? And the reason I'm asking this is we only require a certified letter, let's say for example, my tank is empty, I need the fuel right away, but yet I want to use somebody else, and that would take some time to actually write the letter, certify it, have it received and mailed, et cetera. So would you be open to that? I understand the phone call if someone is on the way might be an issue, but wouldn't certainly a phone two days in advance also serve the same purpose.

CHRISTIAN A. HERB: Well, the phone call -- I'll start from the beginning. Yes, any notification that has a signature, something that you can prove -- whether it's an e-mail, a fax. A certified letter was just an example that I used. But anything that you can actually prove, that would kick in the 24 hours. The company would have 24 hours to stop any deliveries so yes, it would have to be something in writing, not just that. And the non the phone call side of it, I would say that no, you probably want to just do this where that signature so that at least our proposed language would kick in that notification. You know, the dealer categorically knows that if they send a truck out to top off, now they will have to -- they will end up getting stuck with having to pay for that oil instead of the consumer.

REP. REBIMBAS: And just as a follow up, so for example, I'm assuming there's some consumers out there that don't have a contract and that's one of the issues here. Do all -- do all -- let me back that up, do all consumers have contracts?

CHRISTIAN A. HERB: No, most don't.

REP. REBIMBAS: Okay. So for those than engage the company, would it be at that time that they would be provided with the information that the cancellation would have to be writing and then wouldn't it also be probably in the company's best interest and the consumer's best interest that the notification be provided in writing at the time that they actually engage the company.

CHRISTIAN A. HERB: There would be a notice that that's the procedure on how to withdraw from the automatic delivery, yes.

REP. REBIMBAS: And would that notice be in writing?

CHRISTIAN A. HERB: Yes. It would be available to the customer. When they enter into the automatic delivery arrangement, that would be made available to them.

REP. REBIMBAS: Thank you for your testimony.

Thank you, Mr. Chair.

SENATOR DOYLE: Thank you.

Any further questions from the committee?

Representative Baram.

REP. BARAM: Thank you, Mr. Chair.

So if I understand your testimony, you're against Section 2, which requires any kind of a written contact at all.

CHRISTIAN A. HERB: No, just under the automatic delivery. When it comes to automatic deliveries today, the only contracts that are

required in writing and it's actually a bill that we wrote with the attorney general's office and the Department of Consumer Protection about 11 years ago, our guaranteed price contracts. That's a good law. It works. It was model in the country. Other states have followed our lead since then. What we're saying is that the additional language that the Department has introduced in this bill would extend that guaranteed price contract requirement to automatic deliveries. And seeing that most automatic delivery customers are not under written contract, you would literally be making consumers -- 400,000 consumers enter into these contracts.

Let's just punish the people who are doing this, not 400,000 consumers, 600 heating oil dealers. I mean, this is really just a couple of companies so I think there's a better way to solve this problem instead of burdening consumers who would be confused by it that have been involved in these relationships for in some cases decades with no problems at all to suddenly put them in a situation where they were required to enter into a contract would not only be confusing but it could be dangerous because the language in the bill currently says that if the person doesn't actually sign the contract and return it, that they're taken out of automatic delivery. As you know, many people go to Florida for the winter, if you suddenly didn't return a contract, there's no way to contact the customer and the oil company stops making deliveries, we could have a situation where people's pipes freeze up and it happens now even under the current system. We believe it would happen dozens and dozens of times if that language is passed in the form that it's in.

REP. BARAM: Well, if you timed your contract so let's say you -- you encourage somebody to sign a contract let's say in the summertime before heating oil was really necessary and it extended over the entire winter, your know, period. Wouldn't that avoid the problem you're eluding to?

CHRISTIAN A. HERB: Well, I would say that trying to coordinate 600 heating oil -- 600 heating oil dealers who served 650,000 consumers probably not as simple as it -- it sounds. I think that theoretically you're probably right. I don't know if it would quite work out that way. And one house with broken pipes probably wouldn't be worth it when there's a perfectly acceptable alternative that would not only protect consumers, but they might end up with free oil if an oil company wanted to pay games.

REP. BARAM: Thank you.

SENATOR DOYLE: Thank you.

Any further questions from the committee?

Seeing none, thank you.

Next speaker is Lori Lee, Michele Devine, Tim Phelan, Scott Silvester, Brian Goldwyn and Eugene Marconi.

LORRAINE LEE: Good afternoon, Senator Doyle, Representative Taborsak, and members of the General Law Committee. My name is Lori Lee and I have the director of pharmacy at Yale New Haven Hospital. Thank you for the opportunity to testify on House Bill 5329, which is AN ACT CONCERNING THE USE OF TELEPHARMACY BY HOSPITALS.

topics available. When I started my own business, the hardest thing for me to learn was to how run a business not how to do the land surveying. You know, I had enough education and I had very good mentoring that that part of it I knew. What I didn't know was how to run a business. So, you know, I think it's very important that however it's set up that it do include a broad spectrum of topics.

REP. TABORSAK: Thanks for those comments.

Are there any other questions?

If not, thank you for you testimony.

ROBERT DAHN: Thank you.

REP. TABORSAK: Stephen Rosentel followed by Sandra Grance followed by Tom Davis.

STEPHEN G. ROSENTEL: Good afternoon, Representative Taborsak and Senator Doyle and other distinguished members of the committee. My name is Stephen Rosentel and I am president of Leahy's Fuels in Danbury, Connecticut. We are in the retail propane gas and fuel oil business for 80 years. We also serve on the boards of both ICPA, as well as the Propane Gas Association of New England. I currently also serve as treasurer of PGANE and a member of the executive committee. I am here today to talk about AN ACT CONCERNING RESIDENTIAL HEATING OIL AND PROPANE CONTRACT, S.B. 207.

Reform to increase transparency in the propane industry is needed. Members of our industry have spent many hours with the Department of Consumer Protection and the attorney general's office over the past four years to help craft solutions to complaints that the DCP has

received, at times they are very troublesome, particularly when it relates to homeowners who are heating their homes with propane tanks that are owned by the propane supplier. There are solutions to these problems and one of the proposed solutions is mandating a purchase option with a fix-stated commercially reasonable price, much like you see in a car lease. There are other solutions to other issues that can be addressed; however, we cannot S.B. 207 in its current form.

Certain provisions, such as requiring a written agreement to continue automatic delivery would create chaos and marked increase in complaints. Let me explain. We have automatic deliver customers that have been our customers for over 50 years. Us mailing a contract will likely result in a very weak response. Many have been long-term customers because they chose not to cancel the service because they're happy with it. I cannot think of any other service in a home that would require a contract to prevent discontinuation of that service. My company alone has over 13,000 automatic deliver customers. Even if we had a response rate of 90 percent, that would still leave us with no choice but to let 1300 homes run out of fuel.

On the propane side of our business, this would also require a leak check of the entire system. Who would pay the cost? What if the run out is on a weekend or a holiday? The extra response time and the cost will amplify their discontent. Who assumes the liability for frozen pipes? I can report that we're actively working with Commissioner Rubenstein and his staff at DCP on this and other issues. Much progress has been made and we're also coordinating with the ICPA. I strongly believe that solutions to remaining consumer

issues can be reached and I anticipate that a revised version of the bill will likely be one that all parties can support.

I would be happy to take your questions.

REP. TABORSAK: Very nice timing on your testimony.

STEPHEN G. ROSENTEL: Thank you.

REP. TABORSAK: Had to complement you for that. Thanks for your testimony.

Are there any other questions? Any questions or comments from committee members?

Just, you know, you pointed out that this is something that has kind of been a work in progress for a number of years. You mentioned Attorney General Blumenthal was involved at one point in time.

STEPHEN G. ROSENTEL: That's correct.

REP. TABORSAK: That's right. How -- how close are we to getting to a point where the industry would be able to agree to something? Are we any closer today than we were two years ago or -- if you could give us an idea.

STEPHEN G. ROSENTEL: I think we're very close. I think the issue of the underground tanks and purchase option is a big step in the right direction. I think the big remaining issue, as Chris Herb from ICPA alluded to earlier, is the requirement that we need to receive a signed contract from the existing customers for the continuation of automatic deliver when the problem is really a handful of people that end up getting their tanks topped off. In the situation of a propane tank, if it's an above ground tank, the customer can always cancel

the arrangement and we physically go and take the tank back, and obviously, the gas that's in the tank.

On the fuel oil or an underground propane tank delivery, it's more of an issue so the solution that ICPA has crafted in the amendment that would allow for a 24-hour period given written notification I think is a good solution because the companies that have been abusing the situation are going to suffer a very severe penalty when they find out they can't collect for that fuel. And the reality is, our delivery trucks are loaded with delivery tickets. We use an electronic system. It's an e-ticket system, but those trucks are in communication for most of the day, but not all of the day. So if a ticket is already on the truck for delivery that day, we may not be able cancel the delivery because we're in communication with the truck if we're in areas of western Connecticut that have weak cellphone service; however, the 24-hour notice, that truck is going to come back into our yard is going to be reloaded or modified. We can pull tickets back to prevent those deliveries from going forward.

So I think it's a workable solution that will solve the problem of the complaints, but to go to a long-term customers, especially elderly customers that signed up with John Leahy in 1948, now I've got to get a contract signed from them in order to continue to deliver fuel to them is just going to be a disaster. And the numbers of complaints relative to the number of complaints that I think that would generate would be tremendous and the penalties in the statute are increased and significant for the dealers so the consequence to a dealer violating the statute has also been stepped up. So the reality is that the dealer from a

practical point of view is going to have stop delivering the fuel if we can't get a response from the customer. We also have many customers that have multiple homes. We have customers we've never met. In some cases, it's an estate with three or four installations. Try and get those people to respond to a mailing or phone calls for an existing service, like I said in my testimony, I don't think there's any other service that you have your home that requires you to sign up again.

Guaranteed-price contracts are totally arrangements. There is statutory language that requires those to be in writing. There's an 18-month limit on those terms. We have absolutely no problem with that and I think it makes sense because it protects both the company as well as the consumer.

REP. TABORSAK: Are there any other questions?

Thanks for your testimony today.

STEPHEN G. ROSENTEL: Thank you.

REP. TABORSAK: We have Sandra Grance followed by Tom Davis followed by Paul Taormina.

SANDRA GRANCE: Good afternoon, Mr. Chairman and members of the committee. Thank you for letting me speak before you today. My name is Sandra Grance and I'm with the American Beverage Association. We represent the broad spectrum of companies that manufacture and distribute nonalcoholic beverages including soft drinks, teas, juices, waters, sport drinks and energy drinks. I'm here on behalf of our local distributors including Coke, Pepsi and Red Bull.

HB 5360

REP. TABORSAK: Thank you.

JOSEPH LUPPINO: Thank you.

REP. TABORSAK: Any other questions?

If not, thank you for your testimony.

JOSEPH LUPPINO: Thank you.

REP. TABORSAK: T. Michael Morrissey followed by -- I -- I apologize. Actually we'll take Mr. Morrissey then we're going to switch over. We've been joined by a public official, Representative Rojas. So Mr. Morrissey you can -- you can speak now and then we're going to go to Representative Rojas and then back to the public list.

T. MICHAEL MORRISSEY: If it pleases the Chair I would be happy to yield my time to the Representative in deference to his time.

REP. TABORSAK: He's actually looking forward to hearing your testimony.

T. MICHAEL MORRISSEY: Thank you. Senator Doyle, Representative Taborsak and other distinguished members of your Committee, I'm Mike Morrissey. I reside in Glastonbury. I'm also the state director to the National Propane Gas Association.

Today I represent our trade members of our National Propane Gas Association and I'm here to comment on Senate Bill 207. This bill is the product of a lot of hard work on the part of government and industry over the last four or five years. Our industry continues to enjoy terrific growth and it's important consumers who elect to use propane be provided

with guidelines that promote the ability to choose providers and compare offers seamlessly.

As we have grown as an industry, this has not always been the case. This bill offers some real improvements for consumers when it comes to buying propane in Connecticut.

Although the language of this bill is a very good start, it needs some additional work. Our industry has been working very hard with DCP over the last few weeks on the language of this bill so consumers will find it easier to shop for propane in our state.

I am extremely confident and hopeful this effort between industry and government will continue and we will -- and it will result in substitute language that will benefit all parties who oversee, provide or purchase propane in the State of Connecticut.

That concludes my testimony and I'd be happy to take any questions.

REP. TABORSAK: Thank you for your testimony.

T. MICHAEL MORRISSEY: You're welcome.

REP. TABORSAK: Are -- are there any questions from the Committee members?

Thank you, sir.

T. MICHAEL MORRISSEY: Thank you.

REP. TABORSAK: Representative Rojas followed by Officer Nielsen and Officer Ospina.

REP. ROJAS: Good afternoon, Representative Taborsak, Senator Doyle and thank you for the

HB 5306

Written testimony of  
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**Testimony before the General Law Committee**

**Tuesday March 6, 2012, Room 2E at 11:00am**

PIC  
C 10

**CT General Assembly**

**Reference: S.B. No. 207 An Act Concerning Residential Heating Oil and Propane Contracts**

Good morning Senator Doyle and Representative Taborsak and other distinguished members of the committee I am Mike Morrissey, from Glastonbury. I am also the Connecticut State Director to the National Propane Gas Association. Today, I represent our local trade association members who provide propane gas service to our state. I am here to comment on S.B. No. 207 An Act Concerning Residential Heating Oil and Propane Contracts

This bill is the product of a lot of hard work on the part of government and industry over the last four years. Our industry continues to enjoy terrific growth and it is important to consumers who elect to use propane, be provided with guidelines that promote the ability to choose providers and compare offers seamlessly. . As we have grown as an industry this has not always been the case. This bill offers some real improvement for consumers when it comes to buying propane in our state.

Although the language of this bill is a very good start, it needs some additional work. Our industry has been working very hard with DCP over the last few weeks on the language of this bill so consumers will find it easier to shop for propane in our state. I am very confident and hopeful, this effort between industry and government will continue and will result in substitute language that will benefit all parties who oversee, provide or purchase propane in Connecticut.

I would be happy to answer any questions now. Thank you.

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General Law Committee – Tuesday March 6, 2012, Room 2E at 11:00am

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SB 207

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**An Act Concerning  
Residential Heating  
Oil and Propane  
Contracts**

**Testimony before the General Law Committee**

**March 6, 2012**

**By Stephen G. Rosentel, President Leahy's Fuels, Inc. Danbury, CT.**

**203-748-3535**

Good morning Senator Doyle and Representative Taborsak and other distinguished members of the committee, my name is Steve Rosentel and I am the President of Leahy's Fuels, Inc. in Danbury, CT. We are in the retail propane gas and fuel oil business for over 80 years. I am a member of the boards of both the ICPA (Independent CT Petroleum Association) and PGANE (Propane Gas Association of New England.) I also serve as the Treasurer of PGANE and a member of the Executive Committee. I am here to testify on behalf of the propane industry on SB 207.

Reform to increase transparency in the propane industry is needed. Members of our industry have spent many hours with the Department of Consumer Protection (DCP) and the Attorney General's office over the past 4 years to help craft solutions that will enable the consumer to compare company A to company B. The number of complaints that the DCP receives from our industry's customers is at times, troublesome; especially when it comes to homeowners whose homes are heated with underground propane tanks that are owned by the propane supplier. Mandating purchase options with a stated price (much like a consumer sees in a car lease) is a solution. There are other solutions for other issues that can be addressed.

We cannot support SB 207 in its current form. Certain provisions such as requiring a written agreement to continue automatic delivery would create chaos and a marked increase in complaints. Let me explain-

We have automatic delivery customers that have been customers for over 50 years.

Us mailing a contract will likely result in a very weak response. Many have been long-term customers because they chose not to cancel the service because they are happy with it. I cannot think of any other service in a home that would require a signed contract to prevent discontinuation of that service. My company alone has over 13,000 automatic delivery customers. Even if the response rate was 90% that would still leave me with no choice but to let 1,300 homes run out of fuel. On the propane side of our business this requires a leak check of the entire system. Who would pay the cost? What if they run out on a weekend or holiday? The extra response time and cost will amplify their discontent. Who assumes the liability for damages from frozen pipes?

I can report that we are actively working with Commissioner Rubenstein and his staff at DCP on this and other issues. Much progress has been made and we are also coordinating with the ICPA. I strongly believe that solutions to the remaining consumer issues can be reached. I anticipate that a revised version of the bill will likely be one that all parties can support in the near future and I look forward to continuing with that effort.

I would be happy to take any questions you may have.

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March 6, 2012

Co-Chair Paul R. Doyle  
Co-Chair Joseph J. Taborsak  
Senator Kevin D. Witkos  
Representative Rosa C. Rebimbas

P 7

General Law Committee:

I am submitting testimony on S.B. 207, AN ACT CONCERNING RESIDENTIAL RETAIL HEATING OIL AND ~~PROPANE~~ CONTRACTS.

The Independent Connecticut Petroleum Association (ICPA) represents over 576 independently owned and operated heating oil dealers, motor fuels marketers and their associated business in Connecticut. ICPA members employ over 13,000 people in our state and provide our fellow citizens with heating oil and motor fuels.

Our heating fuel retailers distribute heating oil to 650,000 consumers in our state, and it is for that reason that we appear today in support of parts of this legislation as presented, opposed to one part, and recommending adding a new section for your consideration.

The original statute we are proposing to amend today came about through a collaborative effort involving our association, the Department of Consumer Protection (DCP) and the Office of the Attorney General. The heating oil dealer registration law of eleven years ago, and its subsequent amendments, has succeeded in strengthening consumer protection and raising the level of corporate responsibility and behavior in our marketplace. Our law has become the model for laws recently passed in Vermont, Maine and other states in the northeast.

First, we are opposed to Section 2 of the bill amending Section 16a-21 of the General Statutes by adding a new subsection (a) (1) that requires every consumer buying heating oil, unless a purchase initiated by the consumer, to have a written contract. This would mean that each and every one of the 600 heating oil retailers in Connecticut would have to establish a written contract with as many as 400,000 consumers for nothing more complicated than their existing automatic delivery service. This is not only an unconscionable burden to bear for both consumers as well as retailers, it is unnecessary.

We are aware of a small number of retailers engaged in anti-consumer behavior in topping off consumer's tanks when the consumer has notified the retailer that the consumer is moving to another retailer - or when a retailer refuses to accept notice of a consumer leaving the retailer that comes from another retailer. Let's not be confused, as these two practices do not merit generating a lawyer's full employment act by requiring the generation of 400,000 contracts every year.

We are recommending language (attached) that will standardize, in law, what constitutes the termination of automatic delivery service and what notice needs to be given in order to effectuate the orderly termination of service. This addresses the specific issue the DCP and consumers face and does it without requiring 400,000 new contracts.

We are further recommend amending Section 5 of the bill, which amends Section 16a-23m of the General Statutes by including a new education prerequisite for all heating fuel dealers seeking both new and renewal applications for registrations with the DCP.

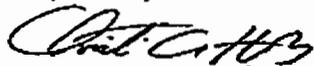
Our industry and the DCP have worked well together for the past ten years as we have strengthened important consumer protections, contract requirements for fixed and capped plan agreements, as well as a host of licensing laws under the heating, ventilation, air conditioning, electrical and plumbing trades.

We strongly believe that everyone who owns and operates a heating fuel business needs to evidence continuing education across several critically important fields in order to successfully comply with laws and regulations as well as to serve the public professionally and raise our professional standards.

The requirements we recommend may be delivered by or taken in any educational institution certified by the Connecticut Department of Higher Education. All a heating fuel dealer would need to do is take a minimal number of courses prior to a new registration and as few as 20 hours of training prior to a registration renewal. This would be a simple certification on the registration form provided by DCP.

I appreciate the opportunity to be with you today to testify on S.B. 207, AN ACT CONCERNING RESIDENTIAL RETAIL HEATING OIL AND PROPANE CONTRACTS, and would be pleased to answer any questions you have. We look forward to working with you and the Department of Consumer Protection on this legislation as it evolves.

Respectfully,



Christian A. Herb  
Vice President

ICPA Amendment to SB 207

**AN ACT CONCERNING RESIDENTIAL HEATING OIL AND PROPANE CONTRACTS.**

Section 1. Section 16a-17 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) As used in sections 16a-17 to 16a-20, inclusive:

(1) "Fuel" includes electricity, natural gas, petroleum products, coal and coal products, wood fuels, radioactive materials and any other resource yielding energy;

(2) "Creating a fuel shortage" means the diminution by contrivance or artificial means of the supply of fuel to a point below that needed to meet consumer demands adequately.

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

(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;

(2) "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;

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

(4) "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;

(5) "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;

(6) "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;

(7) "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;

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

(9) "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.

(10) "Automatic delivery" means the system calculating the heating fuel needs of a consumer by the dealer and of delivering heating fuel to the consumer, as determined by the dealer, based on the consumption of heating fuel by the consumer.

(11) "Notice of Termination of Automatic delivery" means the notice by the consumer to the dealer providing automatic delivery service expressing the request of the consumer to terminate automatic delivery service by the dealer.

Sec. 2. Section 16a-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

[(a) No person, firm or corporation shall sell at retail fuel oil or propane gas to be used for residential heating without placing the unit price, clearly indicated as such, the total number of units sold and the amount of any delivery surcharge in a conspicuous place on the delivery ticket given to the purchaser or an agent of the purchaser at the time of delivery. No person, firm or corporation may bill or otherwise attempt to collect from any purchaser of fuel oil or propane gas an amount which exceeds the unit price multiplied by the total number of units stated on the delivery ticket, plus the amount of any delivery surcharge stated on the ticket. For the purpose of this section, unit price means the price per gallon computed to the nearest tenth of a whole cent.]

(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 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 eighteen months.

(i) Automatic delivery agreements between consumers and dealers are not required to have a written contract governed by this subsection except with regard to the requirement of all dealers to notify consumers of the requirement to provide notice for the termination of automatic delivery service as provided in this subsection.

(ii) Dealers providing automatic delivery service are required to notify the consumers they serve under automatic delivery agreements of the requirement to provide

written notice of the consumer's request for the termination of service. The written notice from consumers to dealers requesting termination of automatic delivery service may be delivered to the dealer by; written request by the consumer delivered by certified mail to the dealer, or electronic mail from the consumer to a valid electronic mail address of the dealer, or electronic facsimile transmitting a written request by the consumer to terminate service sent to a valid facsimile number at the dealer's place of business. The notice must give 24 hours notice of the request to terminate automatic delivery service and the consumer shall not be responsible for the payment of deliveries made by the dealer after the confirmation of the receipt of the notice of termination is received by the consumer.

Sec. 5. Section 16a-23m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(f) Effective October 1, 2013, on forms prescribed by the commissioner, each heating fuel dealer seeking a new certification of registration with the Department of Consumer Protection shall certify that the dealer has completed forty hours of training at an institution certified by the Connecticut Department of Higher Education. The forty hours must include training in anti-trust law, business ethics, licenses, finance, capitalization, futures and hedging, contracts law, state and federal taxes. Each heating fuel dealer seeking a renewal certification of registration with the Department of Consumer Protection shall certify that the dealer has completed twenty hours of training at an institution certified by the Connecticut Department of Higher Education. The twenty hours must include training in any of the following topic areas; anti-trust law, business ethics, licenses, finance, capitalization, futures and hedging, contracts law, state and federal taxes, energy conservation technology, management, human resources, transportation regulations, heating fuels storage technology.

E1

# Department of Consumer Protection

P1  
L2

## Testimony of William Rubenstein Commissioner of Consumer Protection

### General Law Committee Public Hearing March 6, 2012

Sen. Doyle, Rep. Taborsak, Sen. Witkos, Rep. Rebimbas and Honorable Members of the General Law Committee, I am William Rubenstein, Commissioner of Consumer Protection. Thank you for giving me the opportunity to appear before you today. It is my pleasure to offer testimony in support of Senate Bill 207, "An Act concerning Residential Heating Oil and Propane Contracts." This proposal originated within the Department of Consumer Protection, so let me begin by thanking you for raising this bill for your committee's consideration.

As you are probably aware, businesses engaged in the retail sale of home heating oil or propane must hold a registration provided by the Department of Consumer Protection. Consequently, my agency is responsible for receiving and investigating consumer complaints against these businesses. And indeed, we do receive a large number of consumer complaints every year regarding confusing contract provisions and allegations of illegal surcharges and deceptive practices against these companies. Some of these complaints have merit while others are not explicit violations of law. However, one thing is clear: there is a great deal of confusion and customer dissatisfaction with the present system. To that end, the Department feels this is the right time to make

meaningful changes in the residential heating marketplace that will benefit the consumers of our state and lead to a reduction in the number of complaints DCP must respond to.

Before describing the specific changes in our proposal, I would like to call to your attention the recent work of the legislature's Program Review & Investigation Committee on this topic. Last year that committee undertook an extensive review of Connecticut's residential propane heating marketplace and made recommendations for improvements. Their report noted the work of the Department of Consumer Protection in documenting consumer complaints as well as our previous recommendations to improve the system. Their report concluded with a list of recommended statutory changes to improve the marketplace and it should be noted that the proposal before you today includes the majority of those recommendations. We applaud the work of the Program Review & Investigation Committee staff and are pleased to report to you that its recommendations and our proposed bill are substantially aligned.

With that, the bill before you proposes to make the following changes:

1) It requires that all contracts for the residential sale of heating fuel be in writing, and contain all the terms and conditions for delivery. All fees, charges, surcharges and/or penalties must be identified in the contract. The contract may not include any damage charges payable to the dealer beyond the actual damage to the dealer because of a breach of the contract by the consumer.

I would add that our proposal does not *require* that all customers enter into a written contract with a dealer. For those consumers that prefer to engage a dealer for "cash on delivery" orders, they may continue to do so at their option.

2) The written contract may not have an automatic renewal clause unless the consumer is given a meaningful right to terminate at the end of the initial term or subsequent anniversary date. The proposed bill gives consumers the same protections that are afforded already for all other types of consumer contracts.

3) Written contracts that include references to guaranteed price plans that refer to terms such as "capped," "Maximum" or "not to exceed" or similar terms must not

increase above the specified price, and must state in clear and specific language how and under what circumstances the price to customers may decrease during the contract period. Further, guaranteed price contracts may not include an automatic renewal provision.

4) The maximum length of time for a contract between customer and dealer shall be eighteen months. In the case of a contract where the dealer installs an underground tank, the contract length may not exceed five years.

5) Contracts must include an "option to buy" provision allowing the consumers to purchase any leased tank and associated equipment for a specified price that is contained in the contract.

6) We further propose specifically permitting the use of "electronic signature" for heating fuel contracts. The proposed bill also permits the written contract requirement to be satisfied by a telephone acknowledgment process if the retail fuel seller has previously provided the consumer with written notification of the terms and conditions; if they use an interactive voice response system or similar, provided that they keep a recording of the consumer's agreement and provide a confirmation letter of same to the consumer.

These are the most significant changes we propose, but the bill also makes a number of minor, technical and conforming changes as well.

Taken as a whole, we believe this proposal will bring significant improvement to the home heating fuel marketplace. We have listened to Connecticut's consumers and responded with a fair and comprehensive package that will lead to improved customer satisfaction with their home heating dealer.

Thank you for the opportunity to comment on this bill today. We look forward to working with committee members to move this important bill forward.

I would be happy to answer any questions you may have.

**H - 1145**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2012**

**VOL.55  
PART 23  
7514 - 7863**

cd/sg/lg/sd/ev  
HOUSE OF REPRESENTATIVES

654  
MAY 8, 2012

DEPUTY SPEAKER ARESIMOWICZ:

The motion before us is to place this item on the consent calendar.

Is there objection? Is there objection?

Hearing none, this item is placed on consent.

Will the Clerk please call Calendar 497.

THE CLERK:

On page 29, Calendar 497, Substitute for Senate Bill Number 207, AN ACT CONCERNING RESIDENTIAL HEATING OIL AND PROPANE CONTRACTS, favorable report by the Committee on Energy and Technology.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Taborsak of the 109th, you have the floor, sir.

REP. TABORSAK (109th):

Thank you, Mr. Speaker.

I move acceptance of the joint committees' favorable report and passage of the bill in concurrence with the Senate.

DEPUTY SPEAKER ARESIMOWICZ:

The question is on acceptance of the joint committees' favorable report and passage of the bill in concurrence with the Senate.

Will you remark, sir?

cd/sg/lg/sd/ev  
HOUSE OF REPRESENTATIVES

655  
MAY 8, 2012

REP. TABORSAK (109th):

Thank you, Mr. Speaker.

Mr. Speaker, the Clerk is in possession of  
strike-all amendment, LCO 4343.

I asked that the Clerk called amendment, and I be  
granted leave of the Chamber summarize.

DEPUTY SPEAKER ARESIMOWICZ:

Will the Clerk please call LCO 4343, which will  
be designated Senate Amendment Schedule "A."

THE CLERK:

LCO 4343, Senate "A" offered by Representatives  
Rebimbas and Taborsak.

DEPUTY SPEAKER ARESIMOWICZ:

Representative seeks leave of the Chamber to  
summarize the amendment.

Is there objection to summarization? Is there  
objection to summarization?

Hearing none, Representative Taborsak, please  
proceed, sir.

REP. TABORSAK (109th):

Thank you, Mr. Speaker.

Mr. Speaker, the amendment which becomes a bill  
reflects a compromise five years in the making between  
the Department of Consumer Protection and the oil and

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propane retail industries. It, namely, requires that consumers have the option to have written contracts, enhancing consumer protection without unduly burdening these industries.

I move adoption.

DEPUTY SPEAKER ARESIMOWICZ:

The question before the Chamber is on adoption of Senate Amendment Schedule "A."

Will you remark further on the amendment? Will you remark further on the amendment?

Hearing none, I will try your minds.

All those in favor, please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER ARESIMOWICZ:

Those opposed, nay.

The ayes have it.

The amendment is adopted.

Will you remark further on the bill as amended?

Will you remark further on the bill as amended?

Representative Taborsak.

REP. TABORSAK (109th):

Thank you, Mr. Speaker.

I move this item to the consent calendar.

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DEPUTY SPEAKER ARESIMOWICZ:

The question before us is to place item on the consent calendar.

Is there objection? Is there objection?

Hearing none, this item is placed on consent.

Will the Clerk please call Calendar 505?

THE CLERK:

On page 30, Calendar 505, Substitute for Senate Bill Number 323, AN ACT CONCERNING CRANE OPERATIONS, favorable report by the Committee on Public Safety.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Dargan of the 115th, you have the floor, sir.

REP. DARGAN (115th):

Thank you very much Mr. Speaker.

I move acceptance of the joint committees' favorable report and passage of the bill in concurrence with Senate.

DEPUTY SPEAKER ARESIMOWICZ:

The question is on acceptance of the joint committees' favorable report and passage of the bill in concurrence with Senate.

Will you remark, sir?

REP. DARGAN (115th):

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On page 7, Calendar 219, House Bill Number 5148,  
AN ACT CONCERNING AN ACT CONCERNING COMMUNICATIONS TO  
VICTIMS OF THE CURRENT OPERATION OF A MOTOR VEHICLE  
THAT RESULTS IN DEATH OR SERIOUS PHYSICAL INJURY.  
DEPUTY SPEAKER ARESIMOWICZ:

The distinguished Majority Leader, Representative  
Sharkey.

REP. SHARKEY (88th):

Thank you, Mr. Speaker.

Good to see you up there.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you, sir.

REP. SHARKEY (88th):

Mr. Speaker, this represents the consent calendar  
and for everyone's edification, I will be listing off  
the calendar numbers in numerical order so that  
everyone can follow. I'll try keep it -- and make  
sure that I do it in numerical order. Thank you.

These will be: Calendar Number 90, Number 155,  
Number 219, Number 223, Number 290, Number 320, Number  
338, Number 345, Number 389, Number 430, Number 444,  
Number 455, Number 467, Number 470, Number 475, Number  
481, Number 485, Number 488, Number 489, Number 494,

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Number 496, Number 497, Number 505, Number 510, Number 513, Number 525, and Number 531.

I move adoption, I move adoption.

And with that, Mr. Speaker, I move adoption of the consent calendar. I move the consent calendar.

(Speaker Donovan in the Chair.)

SPEAKER DONOVAN:

The question before us is on passage of the bills on today's consent calendar.

Will you remark?

If not, staff and guests please come to the well the House. Members take their seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is voting today's consent calendar by roll call. Members to the chamber please.

SPEAKER DONOVAN:

Have all members voted? Have all members voted?

Please check the roll call board to make sure your vote has been properly cast.

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If all members have voted, the machine will be locked, and the Clerk will take a tally.

The Clerk please announce the tally.

THE CLERK:

On today's consent calendar

Total number voting	144
Necessary for passage	73
Those voting Yea	144
Those voting Nay	0
Those absent and not voting	7

SPEAKER DONOVAN:

The consent calendar passes.

Any announcements or introductions? Any announcements or introductions?

Is there any business on the Clerk's desk?

THE CLERK:

A list of Senate bills, Mr. Speaker.

SPEAKER DONOVAN:

Representative Brendan Sharkey.

REP. SHARKEY (88th):

Thank you, Mr. Speaker.

I move that we waive -- waive the reading of the bills and have these items placed immediately on the House calendar.

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GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2012**

**VOL. 55  
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Mr. Clerk, will you please call the tally. Will you call the tally.

THE CLERK:

Senate Bill Number 57 as amended by Senate "A."		
Total Number Voting	35	.
Necessary for Adoption	18	
Those voting Yea	34	
Those voting Nay	1	
Those absent and not voting	1	

THE CHAIR:

The bill passes.

Mr. Clerk.

THE CLERK:

On page 22, Calendar 104, Substitute for Senate Bill Number 207, AN ACT CONCERNING RESIDENTIAL HEATING OIL AND PROPANE CONTRACTS, favorable report of the Committee on General Law and Energy and Technology.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Welcome back, Madam President.

THE CHAIR:

Thank you.

SENATOR DOYLE:

I move acceptance of the Joint Committee's report and passage of the bill.

THE CHAIR:

The motion is passage of the bill. Will you remark, sir.

SENATOR DOYLE:

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Yes, thank you, Madam President.

The Clerk has an amendment, LCO 4343. Would the Clerk please call and I be allowed to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO Number 4343 Senate "A" offered by Senators Doyle, Witkos, Representatives Taborsak and Rebimbas.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Yes, thank you, Madam President. I move adoption of the amendment.

THE CHAIR:

Motion is on adoption. Will you remark?

SENATOR DOYLE:

Yes. Thank you, Madam President.

This amendment is a strike-all amendment. That's why I immediately called it upfront. This bill before us has been around for the a long time. The genesis of this bill is there has been over the years many -- many --

THE CHAIR:

Ladies and gentlemen, can you keep your voices down? It's very hard to hear Senator Doyle.

Thank you.

Senator Doyle.

SENATOR DOYLE:

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Thank you, Madam President. I'll just start again briefly.

The genesis of this bill is a large number of complaints at the Department of Consumer Protection by our consumers over the years. At issue here is we're dealing home heating fuel for our consumers, residential heating oil and residential propane fuel. And in 2011, the Program Review and Investigation Committee reviewed this issue and issued a report on it. The in-depth study recommended that we do adopt a requirement to have contracts in writing for these fuels and also they recommend have a term of 18 months. Since that time -- this year, the General Law Committee, we crafted in consultation with the Department of Consumer Protection -- and this originally was introduced by the Department of Consumer Protection. We had a public hearing and a lengthy discussion and before you now -- the amendment before us ultimately becomes the bill.

So I guess at this point -- I guess we'll stick with the amendment at this point. The amendment is the bill, but what the amendment does it really puts -- it sets a requirement that most agreements for the purchase of heating oil and propane contracts must be in writing; however, earlier versions has a 100 percent requirement that all contracts be in writing and that was not -- after further investigation, we deemed that wasn't reasonable. So this amendment before us is a compromise with the Department of Consumer Protection and the industry and legislators seeking a good working model. And the main points of exception here are if the consumer personally makes a call for home heating oil on an on-call basis or spot basis, the consumer does not need a contract to do that. So if you called up ABC Heating Company and said I want a delivery today, you could, of course, could get it today. You pay on delivery and there's no need to have a written contract in a situation like that. So when the consumer directly gets involved and makes immediate contact, that does not necessitate a written contract.

Also, an issue arisen in the General Law Committee regarding -- many of you are aware that many consumers have automatic delivery contracts and the concern raised in the committee was if we have an automatic delivery contract and the consumer happens to be in Florida for the winter,

it has to be in writing that there could be some interruption and the property could be damaged. So there is an exception in here for automatic deliver contracts; however, if a person does have the automatic delivery contract, this amendment which really will become the bill makes it clear that in every invoice sent to the consumer, the -- the delivery company must clearly state on the invoice that the consumer has the right to terminate this agreement within actually a day. It's a very quick turnover -- termination right and they also have the right to do a written agreement.

So those are two areas that it was deemed it was appropriate not to have an absolute requirement for a written contract for heating oil and propane. It also -- this bill provides another right. There were concerns with individuals that have exclusive means of heat -- of propane where the normal industry practice is a person calls up and gets the tank delivered to their property by the propane company, but once you get it delivered, you have an exclusive duty to purchase all of your propane from the delivery company. This bill explicitly gives the right to the consumer to purchase the tank and that means, you know, whether you purchase it up front, you'll have a price, it would be more expensive upfront, but later on in the agreement, if the -- when the consumer were to purchase the tank and have the right to purchase the tank, the consumer then could shop around and get -- and purchase propane from other dealers so a concern was expressed by consumers that they really didn't have the opportunity to shop around for pricing of propane that's an important consideration under this agreement.

This agreement also has many other -- it's a comprehensive bill that really provides a lot of protections to the consumer and the fact that this bill -- the majority of all agreements must be in writing, the agreement addresses a concern raised by our consumers that when they have these home heating oil contracts, whether it could -- it could be verbal or even have a written one today, the Department of Consumer Protection was getting -- has gotten many complaints saying the consumers weren't aware -- the contracts did not detail the terms of the agreement and they really didn't know what they are getting into. This amendment, which will become the bill, clearly details what must be in there so the consumer signs an agreement with her eyes open and understands what they're getting

into. It also in there the Department must promulgate regulations to set a consumer bill of rights for the home heating fuel area.

So it is a comprehensive bill, a lot of work in the Program Review and Investigations Committee, the Department of Consumer Protection, and General Law Committee, and I urge our -- the chamber to adopt this amendment, and ultimately, the bill. Thank you, Madam President.

THE CHAIR:

Will you remark? Will you remark?

Senator Witkos.

SENATOR WITKOS:

Thank you, Madam President.

I rise to support the amendment that's before us today. I also want to thank the Program Review and Investigation Committee for their in-depth analysis of a very complex industry. I would like to thank Gary Bernier from the Department of Consumer Protection, Senator Doyle, Representative Taborsak, Representative Rebimbas for all the hard work. This is a very difficult issue to kind of try to get your hands around and oftentimes the most difficult issues get the least amount of attention because it's just involved to try to get all the players to the table to try to reach a compromise and have a meeting of the minds that time runs out.

But not this year, Madam President, I think because of the leadership of the committee, they brought all the minds to the table and it has been a compromise bill that not only protects consumer -- it's consumer friendly -- but also levels the playing field in the industry for the businesses because there are bad people out there that do questionable things in the business, but with this bill's passage, Madam President, that will be exposed and won't be allowed to happen anymore.

As Senator Doyle said, we become fuel blind. We used to have certain regulations for whether you were using oil and certain regulations whether you were using propane, but now we've decided to call home heating fuel so it's

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considered as one basic type of fuel and they're become under the same regulations under home heating fuel. Part of the bill talks about definitions. We define certain terms in law now that were not defined previously so it was questionable so those are very clearly defined. As Senator Doyle said, we also require written contracts from -- the dealers have to offer. That doesn't mean if you are a homeowner or a businessperson, you don't have to write a written -- enter into a written contract, but the dealership that you're going from has to offer you a written contract.

And the written contract can be no longer than 36 months, Madam President, because we found last year as oil prices skyrocketed, specifically, people couldn't afford to pay their bills in the way they had with their contracts they set up. They could kind of stuck. And we said, well, how can we air on the side of caution to the consumer so they're not stuck, but then also make sure that we're -- we understand from a business perspective that, you know, they can base their decisions on a specific contract with their clientele so we said we thought it would be fair to offer a contract that's not greater than 36 months, a three year period.

Currently, if you want to call around -- and I'll give you an example -- you may say, well, oil is going for \$4 a gallon and I heard it was dropping down. I saw an ad in the newspaper so let me get on the telephone and start calling up and you'll call different oil companies and say, How much do you charge per gallon? And then you find an oil company that is offering one for \$3.75 and you say this is great. Could you come over and deliver -- fill me up. I have a 275 tank. So the person on the other end of the phone takes your information and your address and they said, well, it's COD since you've never done business with us before. We need a credit card unless someone is available at the residence to leave a check. So you make the business transaction and they come out. They make a delivery.

Unbeknownst to me, under the current law, that same company can just automatically come out again and you have to pay for it. Even if you said I'm going -- I just wanted one deliver, you didn't notify them that you didn't want them anymore. You paid for one delivery. They can automatically -- under current law, they can automatically

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come to your place of business or your home and deliver you fuel and you have to pay for it. But you always have the open to say, well, I'm not going to pay -- I don't want to pay for it. I didn't order it. They say, well, we'll come pump it out, but we're going to charge you \$150 to pump it out. So again, that kind of holds the -- the consumer prisoner to some extent. But what we're doing in the new language in the new that's before us, as Senator Doyle explained, is that when the delivery ticket is hung on your door or stuck in your garage or wherever it is that oil company or propane service company leaves their ticket, it's going to say how many gallons they delivered, what is the price, are there any fees, are there any charges or are there any surcharges.

And it cannot say there may be fees or surcharges, they have to explicitly say what is the dollar amount so you can make a wise consumer choice whether you want to use that company again. And then the ticket will also explain that if you do not want us to come back automatically, you can either write us a letter, you can e-mail us or you can call us and you'll be taken off the list. So that way if the oil company or propane company shows up at your door and fills your tank and you have evidence that you've made that call of termination, you don't owe one penny. The onus is put on the business that made that delivery and that is so important, Madam President, to protect our residents and our businesses so they know what to expect.

Now, as we go to the propane industry, everything that is applicable to the oil industry is applicable to the propane industry except that in most instances everybody owns their oil tank because they're aboveground and they're usually included in your basement. But in the propane industry, there are tanks buried underground and then there are tanks aboveground and we're not talking about the 20 pound propane tank that you use -- usually use for your gas grill. In these instances, the homeowner has the option to purchase their tank which currently does not exist. They have a right, if they want, to purchase their tank. Now, I have a friend of mine who purchased a house several years and it was a house that had been built. It was a spec house and never been lived in. And so when they were going through the disclosure of the real estate transaction, they said you have a propane home heating system and you have an underground tank. He says okay. Well, the company was out of Springfield, Massachusetts,

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that installed it. And so he called up and he said, well, I guess I'll use them. Got a price. Had it filled up. And he said they're kind of expensive. I'm going to shop around and see what I can get and a Connecticut company was cheaper so he wanted to use the Connecticut company and he was told, Oh, you can't do that because we own the tank.

He said well I want to buy the tank from you and they gave him a price that was so astronomical it didn't make any sense so he said well I guess you've got me. And you know what? We're going to prevent that "got me" in this bill because what this bill does is it also provides that if the homeowner or the business owner that owns or leases the commercial tank has the option to purchase it at a commercially-reasonable price. So the price can't be jacked up just so we can hold you hostage, Madam President. And I think that goes a long way for not only consumers, but for the businesses, as well, to make sure that everybody is on the same playing field.

And lastly, the bill before us really spells out and requires all fees to be in numeric order or numbers so you can't say that subject to applicable and fees because that doesn't tell anybody anything. Well, okay, a fee, but is the fee \$10? Is it \$25? Is it \$75? Now, when this language becomes law, Madam President, the companies that deliver these services to the residents have to tell you exactly what the fees are so you know in plain language, not in lawyer language, but in plain language so anybody could pick up their contract and read it and have a clear understanding of what it is that you're getting yourself into and what your -- your abilities are to get out a contract if you so wish. And with that, Madam President, I strongly support the adoption of the amendment. Thank you.

THE CHAIR:

Thank you.

Will you remark?

Senator McLachlan.

SENATOR McLACHLAN:

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Thank you, Madam President.

Through you, a question to the proponent of the bill.

THE CHAIR:

Please proceed, sir.

SENATOR McLACHLAN:

Thank you, Mr. President.

Senator Doyle, thanks for your work on this along with the rest of the committee who has done a great job in coming up with consumer-friendly legislation. With that thought in mind when I look at the amendment before, specifically lines 54 to 65, I see bracketed disclosure requirements and they seem to be consumer-friendly disclosure requirements requiring the seller to provides cost per gallon or delivery surcharges and so forth and I wonder if you could share with us what was the reasoning behind elimination of that disclosure. Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Yes, through you, Madam President, this is an example of this -- the existing language was -- is deleted because the new language is a little more comprehensive and more detailed so really the spirit of all this disclosure is actually in the new language. So although it looks like this type of language is removed from the bill, it's actually rewritten in the more comprehensive language in a stronger fashion. Through you, Madam President.

THE CHAIR:

Senator McLachlan.

SENATOR McLACHLAN:

Thank you, Madam President.

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Thank you, Senator Doyle. Thank you, Senator Witkos, for your leadership on this consumer-friendly legislation.

THE CHAIR:

Thank you.

Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

Madam President, to Senator Doyle, through you.

THE CHAIR:

Please proceed, sir.

SENATOR FASANO:

Madam President, is there anything in the law that currently prohibits what this bill is allowing to happen? Is there anything prohibits people in this industry from doing all these things that this bill is mandating? Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, the general answer is no. Generally, everything here is a consumer protection so in the sense -- currently, a business could offer on its own and require things in writing, but that's my general answer. My specific is, for instance, however, currently one of the examples that I mentioned earlier was right now some propane dealers do not offer the consumer the opportunity to purchase a tank and that's the -- that's the industry standard really so we are reversing that. But still, yes, in your question, even in that situation, a company could offer it. Through you, Madam President.

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Senator Fasano.

SENATOR FASANO:

Thank you, Madam President.

And as an example, my neighbor is an oil guy and I have an automatic refill with him. I don't believe I've ever signed a contract in my life with him and he's been delivering oil since 1996 to me. Would he and I be required now, through this legislation, enter into a contract? Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, the answer is no, but the difference under this agreement is now when your neighbor delivers, you know, the receipt -- when you're at work, you get the receipt in your door, on there, it says -- it says on there, you have -- it discloses that you have a right to cancel it and this is how you can do it: You can do it either facsimile, e-mail or by written word. So your arrangement stays the same. You're just giving more rights. So your invoice is going to have more of these details so you have knowledge that you can easily terminate it. Through you, Madam President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

So there's no requirement that my refill has to be in a contract with him to have an agreement with him, I can have an oil agreement. Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

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Through you, Madam President, assuming the relationship is an existing, ongoing automatic refill, no, there's no requirement. If you have other agreements where you call them and it's not automatic, it needs to be in writing from this point forward. Through you, Madam President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

So if I switch from my -- in my business that I own, if I switch to his company to deliver oil and said, hey, go ahead and start dropping off the oil at the business, would I then have to enter into a written agreement under this new law? Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, this bill deals with residential circumstances not a business so it does not deal with business to business so it's, you know, the dealer with your residential, but in a residential situation, if you were shift then -- you know, shift from automatic then it would be a written agreement. Through you, Madam President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

And though you, Madam President -- and I apologize for not knowing this -- but what -- what is the ill that we're correctly? What are the complaints that you heard in General Law in the public hearing that rose this to the attention of the committee? Through you, Madam President.

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Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, this issue has been around for many years and the Department of Consumer Protection has a large quantity of complaints from consumers that are not aware of whether they have to have a written agreement or not, because some do today so it's not uniform. But there were complaints about if there's a written agreement, the terms of it are vague and not disclosed. It will just for instance, you know, you're subject to fines and penalties not disclosing what they are. The new requirement would detail what your subject to. It also -- the consumers that have no written agreement at all that have no knowledge and all of a sudden they get whacked with these big fines. So whether it's in a ill-drafted agreement or no agreement, this just gives more knowledge to the consumer of what they're getting into in a transaction. Through you, Madam President.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Madam President, I thank Senator Doyle for his answers. Thank you very much.

THE CHAIR:

Thank you very much.

Will you remark?

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Madam President. It's great to see you this afternoon. Just a couple of questions, through you, to the proponent of the amendment which becomes the bill.

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Please proceed, sir.

SENATOR KISSEL:

I have an awful lot of oil companies and propane companies in my district; for example, Fusco Oil in Windsor, Miller Oil in Enfield, Troiano's in Enfield, State Line Oil & Propane in Granby, and many, many others. And one of the things -- I voted against this in both Program Review and Investigations, as well as in General Law, because I wanted to flag it because as much as I understood that there were consumers that had some issues, especially regarding propane, I also have toured many of these facilities. They are really corporate citizens in my neck of the woods.

And so my first question, through you, Madam President, is did folks from the oil companies have a seat at the table and they negotiate this in good faith with folks from consumer protection? Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, the answer was yes. And I think it was -- it's a very long, lengthy process that preceded my chairmanship of General Law, but even going back to the negotiations on the Program Review and then the version presented at the committee in February, but even since then, the version before us today is the result of a final complete agreement between the department and the industry so I'm -- you know, I was told the industry endorses the proposal before us, LCO 4343. Through you, Madam President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you. And through you, Madam President, and, you know, for example, with State Line Oil & Propane, a good family, the Guarcos, both Senator Witkos and I share representing Granby and I've been in close contact with

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Senator Witkos for the last several weeks regarding negotiations regarding this, and obviously, we have not been dunned in the hallway by any lobbyist so that's very reassuring as well. But to make it crystal clear, through you, Madam President, I had asked a specific question about oil company interest regarding propane company interests as well. Did they have a seat at the table? Is this a negotiated agreement with them and are they completely supportive of this compromise legislation? Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Yes, through you, Madam President, to clarify, yes, I should have said that. It -- throughout the negotiations and the final endorsement of the agreement before us by the home heating oil and the propane industry so I think to be honest as you're a veteran like I am, we have not have lobbied by really anyone. That's indicative of the consensus achieved by this amendment, which I think ultimately is good for the consumer. Through you, Madam President.

THE CHAIR:

Senator Kissel.

SENATOR KISSEL:

Thank you very much.

And at the same time, I did not receive lots of phonecalls from my constituents who are engaged in that field. One of the things I want to compliment both Senator Witkos and yourself is that I found this year in particular, but in past years as serving on the General Law Committee, but this year in particular, there has been a strong effort to sit down and hammer out agreements with all the stakeholders in advance of bringing forward legislation and I don't think that's always the case with all the committees in the building unfortunately for whatever reason, but that's why I think that, you know, the consumers are well-served, but at the same time, my

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small -- I hate to use this term over and over -- but the mom and pops oil and propane companies are well-served, as well. They were not shut out of this.

And so finally after probably about four years, I'm in a position where I can support this legislation going forward and I'd like to thank you for working out the very final compromise that's reflected by this amendment. Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

If I could, a few questions to the proponent.

THE CHAIR:

Please proceed, sir.

SENATOR MCKINNEY:

Thank you.

Senator Doyle, other than requiring, for example, home heating oil dealers to have a written contract, does this in any way prohibit fees or charges or how they cost out the price of the product to the consumers. Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, clearly, one of the biggest benefits of the bill is any fees and charges must be disclosed in the written agreement. That's a significant

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difference to what current law requires. In terms of explicit prohibitions, the bill clearly says these are allowable fees, you know, details certain allowable fees, but I do not think it explicitly details prohibited fees. Through you, Madam President.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you.

And through you, Madam President, as I understand it, some -- a practice would be to charge a different price to different consumers depending on the size of the tank. For example, if someone has 1,000 tank, you may need to deliver to that person twice a year. If someone has a 100 tank, you may be delivering to that person ten times a year. Clearly, as a business owner making ten deliveries costs more than two deliveries. So my questions would be several: One, does this prohibit that practice? And two, does the delivery charge have to be listed as a fee or can that be built into the price that's in the contract? Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, first of all, to answer the first point, there is a legitimate charge or fee or surcharge that can be charged in your -- in the hypothetical presented by Senator McKinney in the sense that for any deliveries up to 100 gallons, there can be surcharges. So really, the threshold is up to 100 gallons there could be extra surcharges. 101 and forward, there cannot be these surcharges and the thought is -- I believe the motivation to permit that is just what Senator McKinney said in the sense that there's multiple deliveries to one property versus, you know, bigger deliveries of 1,000 at a time or the like. Through you, Madam President. And I'll defer to further questions. I'm not sure if I answered all of them. Through you, Madam President.

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THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Just so -- for my clarification, they would not be prohibited from charging a different price based on the size of the tank? Through you, Madam, President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, can -- I apologize. Can Senator McKinney repeat that question?

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Absolutely. Thank you, Senator.

Madam President, through you, this bill would not then prohibit a home heating oil dealer from charging different prices to consumers based on the size of the tank. Through you.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, the answer is yes. You are correct.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

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Thank you. I also understand that part of the practice for home heating oil delivery in terms of the price is cost plus the margins that the company puts on the cost. Obviously, margins may be -- I don't know if that covers administrative cost, but that's also their profit margin that their going to make. One of the reasons why they do that is because the price of the home heating oil fluctuates literally on a daily basis. That -- this bill does not change that practice. In other words, the contract, for example, could be written cost plus X percent margin. Through you, Madam President, is that still allowed?

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, that is still legal. Just while on this point, let me just address a few other points along this line. As I said, there can be a price differential on quantity like we said, 100 and less, or 100 and greater, also, if the delivery is made out of the normal delivery service areas. So if somebody in Fairfield asks somebody in Wethersfield to deliver, of course, there could be a surcharge for the transportation in the much longer deliver. Also, if there is -- there is an ability for extra labor costs for the deliver, which is rather vague, but if you could justify additional labor charges. I assume, you know, difficult in getting in other property in the like, you can do a surcharge. Through you, Madam President.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

Senator Doyle, could just give me -- obviously not exact numbers -- but your sense on -- on the marketplace out there and the consumer protections in the marketplace currently. Obviously, I was listening to some of the debate earlier

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and complaints by consumers. You know, in my neck of the woods, a lot of the businesses seem to be extraordinarily well-run reputable, good businesses, not a lot of consumer complaints. Are we trying to solve a problem that's being caused by a small portion of the industry or is this wider spread throughout? Through you, Madam President.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Through you, Madam President, I would categorize it, it is a significant problem as evidenced by significant complaints at the Department of Consumer Protection; however, I don't know -- I haven't reviewed them so I'm not certain -- you may very well be correct that there's few complaints from Fairfield County. I don't know if they're focused on a certain area, but the major motivation for this bill really is disclosure so -- and I am a lawyer not a -- I'm not sure I want to get into a description of the market of home heating oil, but I will say that the focus here really isn't necessary on the high cost of it. It's really on disclosure so that the consumer knows what they're getting into so when they're going to purchase it, they realize that these are the costs. These are the fees and nothing is hidden. So really, it's information for the consumer, disclosure to the consumer rather than a complaint -- which we hear a lot about the actual price of fuel. We all hear about that, but that's not really the issue here. It's more everything around that except that's a separate problem that, you know, maybe smarter people than me can solve, but it's disclosure really we're getting at. Through you, Madam President.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Great. I want thank Senator Doyle for answering my questions. Thank you, Madam President.

THE CHAIR:

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Thank you, Senator.

Will you remark? Will you remark? If not, all in favor  
of the amendment please say Aye.

SENATORS:

Aye.

THE CHAIR:

Opposed?

The amendment passes.

Senator Doyle.

SENATOR DOYLE:

Madam President, if there's no objection, I would refer  
this to the consent calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

Mr. Clerk.

THE CLERK:

On page 24, Calendar 197, Substitute for Senate Bill Number  
315, AN ACT PROHIBITING THE UNNECESSARY COLLECTION OF  
SOCIAL SECURITY NUMBERS, favorable report of the  
Committees on General Law and Judiciary.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Hello, again, Madam President.

THE CHAIR:

Hi.

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House Bill 5123; on page 15, Calendar 401, House Bill 5516; on page 19, Calendar 421, House Bill 5107.

On page 21, Calendar 59, Senate Bill Number 97; also on page 21, Calendar 90, Senate Bill 188; on page 21, again, Calendar 72, Senate Bill 63; page 21, Calendar 73, Senate Bill 195; on page 22, Calendar 104, Senate Bill 207; on page 24, Calendar 197, Senate Bill Number 315; also on page 24, Calendar 183, Senate Bill 234.

Page 25, Calendar 208, Senate Bill 347; on page 25, Calendar 233, Senate Bill 371; on page 26, Calendar 275, Senate Bill 391; on page 27, Calendar 288, Senate Bill 299; on page 27, Calendar 292, Senate Bill 156; and on page 28, Calendar 333, Senate Bill Number 426.

THE CHAIR:

Okay. Mr. Clerk, would you please call for a roll call vote and the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate. Senators please return to the Chamber. Immediate roll call has been ordered in the Senate.

THE CHAIR:

If all members have voted -- all members voted. The machine will be closed. And Mr. Clerk, will you call this great tally?

THE CLERK:

On today's consent calendar.

Total Number voting	36	
Necessary for adoption	19	
Those voting Yea		36
Those voting Nay		0
Those absent and not voting	0	

THE CHAIR:

The consent calendar passed.