

SB 114 – AS AMENDED BY THE SENATE

03/21/13 0869s
03/21/13 1072s

2013 SESSION

13-0978
05/03

SENATE BILL ***114***

AN ACT regulating guaranteed price plans and prepaid contracts for heating oil, kerosene, or liquefied petroleum gas.

SPONSORS: Sen. Kelly, Dist 10; Sen. Fuller Clark, Dist 21; Sen. Boutin, Dist 16; Sen. D'Allesandro, Dist 20; Rep. Schlachman, Rock 18

COMMITTEE: Commerce

AMENDED ANALYSIS

This bill requires home heating oil, kerosene, or liquefied petroleum gas dealers to secure customer prepaid deposits by maintaining a futures contract, letter of credit, or surety bond of a specified amount with the office of the attorney general as the beneficiary. The bill also establishes a registration and reporting requirement for such dealers.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT regulating guaranteed price plans and prepaid contracts for heating oil, kerosene,
 or liquefied petroleum gas.

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

1 1 Requirements for Guaranteed Price Plans and Prepaid Contracts for Petroleum. RSA 339:79,
2 IV is repealed and reenacted to read as follows:

3 IV. Any dealer who sells heating oil, kerosene, or liquefied petroleum gas in advance of the
4 heating season or on a continuous basis shall secure customer prepaid deposits in one of the
5 following ways:

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

12 (b) Maintain a letter of credit, naming the state of New Hampshire, office of the attorney
13 general as beneficiary, from an FDIC-insured institution in an amount that represents 75 percent of
14 the total amount of prepaid balances owed to customers pursuant to prepaid heating oil, kerosene, or
15 liquefied petroleum gas contracts. The amount of the letter of credit may be adjusted monthly
16 within 7 days of the close of the calendar month; or

17 (c) Maintain a surety bond, made payable to the attorney general, in an amount not less
18 than 75 percent of the total amount of funds paid to the dealer by consumers pursuant to prepaid
19 heating oil, kerosene, or liquefied petroleum gas contracts. The amount of the surety bond may be
20 adjusted monthly within 7 days of the close of the calendar month.

21 2 New Paragraphs; Prepaid Contracts; Registration and Reporting Requirement. Amend RSA
22 339:79 by inserting after paragraph V the following new paragraphs:

23 V-a. A home heating oil, kerosene, or liquefied petroleum gas dealer who offers prepaid
24 contracts under this section shall register the dealer's intent to offer such contracts with the attorney
25 general by June 30 of each year. Registration shall be on a form provided by the attorney general.

26 V-b. A home heating oil, kerosene, or liquefied petroleum gas dealer who offers prepaid
27 contracts under this section shall file an annual report with the attorney general by October 31 of
28 each year demonstrating how the dealer has satisfied the requirements of this section, including how

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1 the prepaid contracts are secured. The report shall be made on a form provided by the attorney
2 general. The form shall conspicuously bear the warning that any person making a false statement
3 on the form shall be guilty of the crime of unsworn falsification under RSA 641:3 and a violation of
4 the consumer protection act under RSA 358-A. The report shall be signed by the dealer. If the dealer
5 is a corporation, the report shall be signed by either the president or an officer of the corporation and
6 shall include a list of all of the members of the board of directors of the corporation.

7 V-c. The attorney general may investigate any dealer who has filed a registration form
8 under paragraph V-a and has failed to file a report demonstrating how the contracts are secured
9 pursuant to paragraph V-b. The attorney general may prosecute any person who makes a false
10 statement on the report required under paragraph V-a for the crime of unsworn falsification under
11 RSA 641:3 and a violation of the consumer protection act under RSA 358-A. Failure to file the report
12 required under paragraph V-b shall constitute an unfair trade practice under RSA 358-A.

13 3 Effective Date. This act shall take effect 60 days after its passage.