

CHAPTER 300  
HB 1282-FN – FINAL VERSION

12Mar2014... 0698h  
05/01/14 1506s  
05/15/14 1856s  
4Jun2014... 2003CofC  
4Jun2014... 2020EBA

2014 SESSION

14-2375  
05/01

HOUSE BILL ***1282-FN***

AN ACT relative to prepaid contracts for home heating fuel and relative to reimbursement for towns affected by the Merrimack River flood control compact and making an appropriation therefor.

SPONSORS: Rep. Ford, Graf 3; Rep. Shurtleff, Merr 11; Rep. Spratt, Hills 4

COMMITTEE: Commerce and Consumer Affairs

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AMENDED ANALYSIS

This bill:

I. Establishes minimum inventory, registration, and reporting requirements for home heating oil, kerosene, or liquefied petroleum gas dealers who offer prepaid contracts.

II. Makes the failure to deliver home heating fuel in accordance with a prepaid contract a violation of the consumer protection act.

III. Appropriates settlement funds to the department of revenue administration for the purpose of reimbursing towns for the Massachusetts shares of the Merrimack River flood control compact and the Connecticut River flood control compact.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fourteen*

AN ACT                   relative to prepaid contracts for home heating fuel and relative to reimbursement for towns affected by the Merrimack River flood control compact and making an appropriation therefor.

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

1           300:1 Definition of Heating Fuel and Heating Fuel Season. Amend RSA 339:78, II to read as  
2 follows:

3           II. ***“Heating fuel” means heating oil, kerosene, or liquefied petroleum gas.***

4           III. ***“Heating [oil] fuel season” means a period of 12 months beginning no earlier than***  
5 ***May 1.***

6           300:2 Requirements for Guaranteed Price Plans and Prepaid Contracts for Home Heating Fuel.  
7 Amend RSA 339:79, III to read as follows:

8           III. A contract that requires prepayment by the consumer or caps the price of heating [oil]  
9 ***fuel*** shall comply with paragraphs I and II of this section. Such contract also:

10           (a) Shall ~~[not require consumers to commit for a term of more than one heating oil~~  
11 ~~season. Such contracts shall be offered no earlier than January 1]~~ ***not be advertised or solicited***  
12 ***earlier than May 1 or later than October 31*** of the year in which the heating [oil] ***fuel*** season  
13 begins. ***Such contracts may be signed prior to May 1 only at the request of the residential***  
14 ***consumer.***

15           (b) Shall require dealers to reimburse consumers at the contract price for any  
16 undelivered pre-purchased [oil] ***fuel***, within 30 days after the contract ends, unless the dealer and  
17 consumer agree to different terms.

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

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

24           300:3 Guaranteed Price Plans and Prepaid Contracts; Inventory Requirement. Amend RSA  
25 339:79, IV(b) and (c) to read as follows:

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

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

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

11 300:4 New Paragraphs; Registration and Reporting Requirement; Dedicated Fund. Amend  
12 RSA 339:79 by inserting after paragraph V the following new paragraphs:

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

18 V-b. A home heating oil, kerosene, or liquefied petroleum gas dealer who offers prepaid  
19 contracts under this section shall file an annual report with the secretary of state by December 1 of  
20 each year demonstrating how the dealer has satisfied the requirements of this section, including how  
21 the prepaid contracts are secured. The report shall be made on a form provided by the secretary of  
22 state. The form shall conspicuously bear the warning that making a false statement on the form  
23 shall constitute an unfair or deceptive act or practice in violation of RSA 358-A. The report shall be  
24 signed by the dealer. If the dealer is a corporation, the report shall be signed by either the president  
25 or an officer of the corporation and shall include a list of all of the members of the board of directors  
26 of the corporation. The secretary of state may not charge a fee for the form or for filing the report.

27 300:5 New Paragraph; Acts Prohibited Under the Consumer Protection Act; Failure to Provide  
28 Timely Delivery of Home Heating Fuel. Amend RSA 358-A:2 by inserting after paragraph XIV the  
29 following new paragraph:

30 XV. Failing to deliver home heating fuel in accordance with a prepaid contract.

31 300:6 Findings. The general court finds that:

32 I. On January 17, 2014 the state of New Hampshire and the Commonwealth of  
33 Massachusetts reached a settlement agreement relative to moneys owed to the state of  
34 New Hampshire under the Merrimack River flood control compact under RSA 484:7. The settlement  
35 agreement resulted in a payment of \$1,112,377.74 to the state of New Hampshire to resolve all  
36 outstanding debt under the compact up to and including state fiscal year 2012.

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1           II. The state received a check for this amount on January 31, 2014.

2           300:7 Department of Revenue Administration; Appropriation.

3           I. The sum of \$542,672 from the \$1,112,377.74 settlement agreement dated January 17,  
4 2014 under the Merrimack River flood control compact is hereby appropriated to the department of  
5 revenue administration. The governor is authorized to draw a warrant for the purpose of  
6 reimbursing the towns for the Massachusetts shares of the Merrimack River flood control compact  
7 and the Connecticut River flood control compact for state fiscal year 2012. The department shall  
8 distribute the moneys in the manner prescribed in RSA 122:4, I. This appropriation is in addition to  
9 any other appropriations to the department. The remainder of the settlement moneys shall lapse to  
10 the general fund.

11           II. The department of revenue administration shall fund, under RSA 122:4, I, any shortfall  
12 in fiscal year 2015 flood control payments.

13           300:8 Repeal. 2013, 144:126, relative to flood control payments, is repealed.

14           300:9 Contingent Renumbering. If SB 371-FN of the 2014 regular legislative session becomes  
15 law, RSA 358-A:2, XV as inserted by section 5 of this act shall be renumbered as RSA 358-A:2, XVI.

16           300:10 Effective Date.

17           I. Sections 1-5 of this act shall take effect January 1, 2015.

18           II. The remainder of this act shall take effect upon its passage.

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20 Approved: August 1, 2014

21 Effective Date: I Sections 1-5 shall take effect January 1, 2015.

22           II. Remainder shall take effect August 1, 2014.

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