



125th MAINE LEGISLATURE

SECOND REGULAR SESSION-2012

Legislative Document

No. 1895

H.P. 1399

House of Representatives, March 21, 2012

**An Act To Protect Consumers by Strengthening the Laws
Governing Prepaid Home Heating Oil Contracts**

(EMERGENCY)

Reported by Representative PRESCOTT of Topsham for the Joint Standing Committee on Labor, Commerce, Research and Economic Development pursuant to Resolve 2011, chapter 79.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** several home heating oil retailers have abruptly closed their businesses;
4 and

5 **Whereas,** many customers of these retailers were owed heating oil and were left
6 without a refund or the oil, and the current laws have been unable to sufficiently protect
7 these customers; and

8 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
9 the meaning of the Constitution of Maine and require the following legislation as
10 immediately necessary for the preservation of the public peace, health and safety; now,
11 therefore,

12 **Be it enacted by the People of the State of Maine as follows:**

13 **Sec. 1. 10 MRSA §1110, sub-§§1-A and 1-B** are enacted to read:

14 **1-A. Registration.** A home heating oil, kerosene or liquefied petroleum gas dealer
15 who offers prepaid contracts under this section shall register the dealer's intent to offer
16 such contracts with the Commissioner of Professional and Financial Regulation by June
17 30th of each year. Registration must be on a form provided by the commissioner,
18 accompanied by a fee of \$100. Fees received under this subsection must be used by the
19 commissioner to administer this section. Any balance of these funds does not lapse but
20 must be carried forward to be expended for the same purpose in the following fiscal year.

21 **1-B. Report.** A home heating oil, kerosene or liquefied petroleum gas dealer who
22 offers prepaid contracts under this section shall file an annual report with the
23 Commissioner of Professional and Financial Regulation by October 31st of each year
24 demonstrating how the dealer has satisfied the requirements of this section, including
25 how the prepaid contracts are secured. The report must be made on a form provided by
26 the commissioner. The form must conspicuously bear the warning that making a false
27 statement on the form is a Class D crime under Title 17-A, section 453. The report must
28 be signed by the dealer. If the dealer is a corporation, the report must be signed by either
29 the president or an officer of the corporation and must include a list of all of the members
30 of the board of directors of the corporation. The commissioner may not charge a fee for
31 the form or for filing the report.

32 **Sec. 2. 10 MRSA §1110, sub-§§6 to 9** are enacted to read:

33 **6. Enforcement.** The Commissioner of Professional and Financial Regulation shall
34 refer to the Attorney General for investigation any dealer that has filed a registration form
35 under subsection 1-A and has failed to file a report demonstrating how the contracts are
36 secured pursuant to subsection 1-B.

37 **7. Prosecution.** The Attorney General may prosecute a person making a false
38 statement on the report required by subsection 1-B for unsworn falsification under Title

1 17-A, section 453 and may prosecute failure to file the report required by subsection 1-B
2 as an unfair trade practice.

3 **8. Unfair trade practice.** A violation of any of the requirements of this section is a
4 violation of the Maine Unfair Trade Practices Act.

5 **9. Rules.** The Commissioner of Professional and Financial Regulation may adopt
6 rules to carry out the purposes of this section. Rules adopted pursuant to this subsection
7 are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

8 **Sec. 3. Appropriations and allocations.** The following appropriations and
9 allocations are made.

10 **PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**
11 **Administrative Services - Professional and Financial Regulation 0094**

12 Initiative: Allocates one-time funds to reconfigure the licensing system to accommodate
13 the registration of fuel dealers who offer prepaid contracts to residents of the State.

14

15	OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
16	All Other	\$12,000	\$0
17			
18	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$12,000</u>	<u>\$0</u>

19 **Emergency clause.** In view of the emergency cited in the preamble, this
20 legislation takes effect when approved.

21 **SUMMARY**

22 This bill is reported out by the Joint Standing Committee on Labor, Commerce,
23 Research and Economic Development pursuant to Resolve 2011, chapter 79. It requires a
24 dealer who offers prepaid contracts for home heating oil, kerosene or liquefied petroleum
25 gas to residents of this State to register the dealer's intent to offer such contracts with the
26 Commissioner of Professional and Financial Regulation by June 30th of each year and
27 pay a fee of \$100 to be used by the commissioner in administering the laws regarding
28 such contracts. It requires such a dealer to file a report with the commissioner by October
29 31st of each year demonstrating compliance.

30 The bill requires that the annual report be made on a form provided by the
31 commissioner and that the form conspicuously bear notice that a false statement made on
32 the form is punishable as a Class D crime. The report must be signed by the dealer, or, if
33 the dealer is a corporation, the report must be signed by either the president or an officer
34 of the corporation and include a list of all of the members of the board of directors of the
35 corporation. There is no fee for the annual report. The bill also requires the
36 commissioner to refer to the Attorney General for prosecution any registered dealer who
37 fails to provide the required report or who makes a false statement on the required report.
38 The bill provides that a violation of any of the requirements of the Maine Revised

1 Statutes, Title 10, section 1110 is a violation of the Maine Unfair Trade Practices Act.
2 The bill includes an appropriations and allocations section.

3

FISCAL NOTE REQUIRED

4

(See attached)