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H.185

Introduced by Representatives Consejo of Sheldon, Atkins of Winooski,
Branagan of Georgia, Browning of Arlington, Christie of
Hartford, Davis of Washington, Evans of Essex, French of
Shrewsbury, Gilbert of Fairfax, Heath of Westford, Jerman of
Essex, Keenan of St. Albans City, Lenex of Shelburne,
Manwaring of Wilmington, Martin of Wolcott, Masland of
Thetford, Miller of Shaftsbury, Mitchell of Barnard, Mook of
Bennington, Moran of Wardsboro, Mrowicki of Putney, Nuovo
of Middlebury, Ralston of Middlebury, Spengler of Colchester,
Till of Jericho, Waite-Simpson of Essex, Wilson of Manchester,
Woodward of Johnson, Yantachka of Charlotte and Young of
Albany

Referred to Committee on

Date:

Subject: Commerce and trade; consumer protection; propane

Statement of purpose: This bill proposes to prohibit the imposition of a
minimum usage fee for propane or any charge for gas that is not actually
delivered to a consumer; to prohibit any charge for removing a propane tank
that a consumer has had for over a year; and to clarify that a propane seller

1 shall fully refund payment to a consumer when a balance remains on an
2 account that is closed.

3 An act relating to regulating fees and charges for propane gas

4 It is hereby enacted by the General Assembly of the State of Vermont:

5 ~~Sec. 1. 9 V.S.A. § 2461b is amended to read:~~

6 ~~§ 2461b. REGULATION OF LIQUEFIED LIQUEFIED PETROLEUM GAS~~

7 ~~(a) The attorney general shall investigate irregularities, complaints, and~~
8 ~~unfair or deceptive acts in commerce by sellers of liquefied liquefied petroleum~~
9 ~~gas.~~

10 ~~(b) For the purpose of promoting business practices which are uniformly~~
11 ~~fair to sellers and which protect consumers, the attorney general shall~~
12 ~~promulgate necessary rules and regulations including, but not limited to, notice~~
13 ~~prior to disconnection, repayment agreements, minimum delivery,~~
14 ~~discrimination, security deposits and the assessment of fees and charges.~~

15 ~~(c) A violation of this section, or a rule or regulation promulgated under~~
16 ~~this section, shall constitute an unfair and deceptive act in commerce in~~
17 ~~violation of section 2453 of this title.~~

18 ~~(d) A seller of liquefied petroleum gas shall not charge:~~

19 ~~(1) a minimum usage fee;~~

20 ~~(2) a fee for gas that is not actually delivered to a consumer; or~~

1 ~~(3) a fee to remove the seller's storage tank from the consumer's~~
2 ~~premises if the tank has been located on the premises for not less than one~~
3 ~~year.~~

4 ~~(e)(1) When a seller of liquefied petroleum gas disconnects or terminates~~
5 ~~service to a consumer, the seller shall reimburse to the consumer, within 20~~
6 ~~days of the disconnection or termination, the retail price paid for any gas~~
7 ~~remaining in the tank, or, if the amount of gas remaining in the tank cannot be~~
8 ~~determined with certainty, reimburse to the consumer 80 percent of the seller's~~
9 ~~best reasonable estimate of said amount less any amounts due from the~~
10 ~~consumer.~~

11 ~~(2) The seller shall refund the remainder of the amount due as soon as~~
12 ~~the quantity of gas left in the tank can be determined with certainty, but no~~
13 ~~later than 14 days after the removal of the tank.~~

14 ~~(3) A refund shall be made by cash, check, direct deposit, credit to a~~
15 ~~credit card account, or otherwise in the same method or manner of payment the~~
16 ~~consumer, or a third party on the consumer's behalf, used to make payments to~~
17 ~~the seller. A seller shall not provide a refund in the form of a reimbursement~~
18 ~~or credit to any account with the seller held in the name of or on behalf of the~~
19 ~~consumer.~~

20 Sec. 2. EFFECTIVE DATE

21 This act shall take effect upon passage.

Sec. 1. 9 V.S.A. § 2461b is amended to read:

§ 2461b. REGULATION OF LIQUIFIED PETROLEUM PROPANE GAS

(a)(1) In this section:

(A) “Consumer” means any person who purchases propane for consumption and not for resale, through a meter or has propane delivered to one or more storage tanks of 2000 gallons or less.

(B) “Seller” means a person who sells or offers to sell propane to a consumer.

(2) The attorney general shall investigate irregularities, complaints, and unfair or deceptive acts in commerce by sellers of liquefied petroleum gas.

(b) For the purpose of promoting business practices which are uniformly fair to sellers and which protect consumers, the attorney general shall promulgate necessary rules and regulations, including, ~~but not limited to,~~ notice prior to disconnection, repayment agreements, minimum delivery, discrimination, security deposits and the assessment of fees and charges.

(c)(1) A violation of this section, or a rule or regulation promulgated under this section not inconsistent with this section, shall constitute an unfair and deceptive act in commerce in violation of section 2453 of this title.

(2) No contract for propane services shall contain any provision which conflicts with the obligations and remedies established by this section or by any rule or regulation promulgated under this section, and any conflicting provision shall be unenforceable and void.

(d) A seller shall not:

(1) assess a minimum usage fee;

(2) assess a fee for propane that is not actually delivered to a consumer;
or

(3) require a consumer to purchase a minimum number of gallons of propane per year, except as part of a guaranteed price plan that meets the requirements of section 2461e of this title.

(e) When terminating service to a consumer, a seller shall comply with the following requirements.

(1)(A) If the propane storage tank has been located on the consumer’s premises, regardless of ownership of the premises, for 12 months or more, the seller may not assess a fee related to termination of propane service, including a fee

(i) to remove the seller's storage tank from the premises;

(ii) to pump out or restock propane; or

(iii) to terminate service.

(B) If a consumer has received propane service from the seller for less than 12 months, any fee related to termination of service may not exceed the disclosed price of labor and materials.

(2)(A) Within 20 days of the date when the seller disconnects propane service or is notified by the consumer in writing that service has been disconnected, whichever is earlier, the seller shall refund to the consumer the amount paid by the consumer for any propane remaining in the storage tank, less any payments due the seller from the consumer.

(B) If the quantity of propane remaining in the storage tank cannot be determined with certainty, the seller shall, within the 20 days described in subdivision (2)(A) of this subsection, refund to the consumer the amount paid by the consumer for 80 percent of the seller's best reasonable estimate of the quantity of propane remaining in the tank, less any payments due from the consumer. The seller shall refund the remainder of the amount due as soon as the quantity of propane left in the tank can be determined with certainty, but no later than 14 days after the removal of the tank or restocking of the tank at the time of reconnection.

(3)(A) Any refund to the consumer shall be by cash, check, direct deposit, credit to a credit card account, or in the same method or manner of payment that the consumer, or a third party on the consumer's behalf, used to make payments to the seller.

(B) Unless requested by the consumer, a seller shall not provide a refund in the form of a reimbursement or credit to any account with the seller.

(4) If the seller fails to mail or deliver a refund to the consumer in accordance with this subsection, the seller shall within one business day make a penalty payment to the consumer, in addition to the refund, of \$250.00 on the first day after the refund was due, and \$75.00 per day for each day thereafter until the refund and penalty payment have been mailed or delivered.

(5) Termination of service does not void any guaranteed price plan that meets the requirements of section 2461e of this title that has not expired by its own terms.

(f)(1) A seller of propane shall not refuse to deliver propane to a storage tank owned by a consumer if the consumer provides proof of ownership of the tank and the seller has conducted a safety check of the tank in accordance with NFPA 54 (National Fuel Gas Code) and NFPA 58 (Storage and Handling of

Liquefied Petroleum Gas Code) of the National Fire Protection Association and complies with rules adopted by the attorney general governing propane.

(2) If a seller of propane chooses to finance a consumer's purchase of a storage tank, the financing shall be a retail installment sale as provided in chapter 61 of this title.

(g) Non-payment of the following charges may be the only basis for an interruption or disconnection of service: propane, leak or pressure test, safety check, restart of equipment, after-hours delivery, special trip for delivery, and meter read.

Sec. 2. EFFECTIVE DATE; IMPLEMENTATION

(a) This act shall take effect upon passage.

(b) A provision of an existing contract that specifies an amount for any fee that would otherwise be prohibited by this act shall remain valid and enforceable until:

(1) the date the contract expires or April 1, 2012, whichever is sooner; or,

(2) in the case of the termination of service to an underground storage tank, the earlier of:

(A) 30 days after the date the contract expires, or as soon thereafter as weather and access to the tank allow; or

(B) April 1, 2014.