

1 H.299

2 Introduced by Representatives Botzow of Pownal and Marcotte of Coventry

3 Referred to Committee on

4 Date:

5 Subject: Commerce and trade; consumer protection

6 Statement of purpose of bill as introduced: This bill proposes to authorize an  
7 award of liquidated damages to a consumer for a delay in removing a propane  
8 tank; to prohibit transmission of an unsolicited bill or demand for payment; to  
9 increase the penalty for failure to comply with a consumer protection civil  
10 investigation; and to reorganize provisions of the Consumer Protection Act.

11 An act relating to enhancing consumer protection provisions for propane  
12 refunds, unsolicited demands for payment, and failure to comply with civil  
13 investigations

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

15 Sec. 1. 9 V.S.A. § 2461b(h) is added to read:

16 (h)(1) A seller who has a duty to remove a propane storage tank from a  
17 consumer's premises shall remove the tank within 30 days of the date when the  
18 seller disconnects propane service or is notified by the consumer in writing that  
19 service has been disconnected, whichever is earlier.

20 (2) A seller who fails to remove a propane storage tank in accordance  
21 with this subsection shall make a penalty payment to the consumer of \$250.00

1 on the first day after the tank should have been removed, and \$75.00 per day  
2 for each day thereafter until the tank has been removed and the penalty  
3 payment has been mailed or delivered.

4 Sec. 2. 9 V.S.A. chapter 135 is amended to read:

5 CHAPTER 135. UNSOLICITED MERCHANDISE; UNSOLICITED  
6 DEMANDS FOR PAYMENT

7 \* \* \*

8 § 4402. UNSOLICITED DEMANDS FOR PAYMENT

9 (a) It is an unfair and deceptive act and practice in commerce in violation  
10 of section 2453 of this title for a person to submit to another person a demand  
11 for payment for goods or services if:

12 (1) the person has not provided the goods or services for which payment  
13 is demanded; or

14 (2) the recipient of the demand did not order or otherwise request the  
15 goods or services.

16 (b) Subsection (a) of this section shall not apply to a demand for payment  
17 or solicitation to renew an existing agreement for the purchase of goods or  
18 services.

1 Sec. 3. 9 V.S.A. § 2460 is amended to read:

2 § 2460. CIVIL INVESTIGATION

3 (a)(1) The ~~attorney general~~ Attorney General or a state's attorney whenever  
4 he or she has reason to believe any person to be or to have been in violation of  
5 section 2453 of this title, or of any rule or regulation made pursuant to section  
6 2453 of this title, may examine or cause to be examined by any agent or  
7 representative designated by him or her for that purpose, any books, records,  
8 papers, memoranda, and physical objects of whatever nature bearing upon each  
9 alleged violation, and may demand written responses under oath to questions  
10 bearing upon each alleged violation.

11 (2) The ~~attorney general~~ Attorney General or a state's attorney may  
12 require the attendance of such person or of any other person having knowledge  
13 in the premises in the county where ~~such~~ the person resides or has a place of  
14 business or in Washington County if ~~such~~ the person is a nonresident or has no  
15 place of business within the ~~state~~ State, and may take testimony and require  
16 proof material for his or her information, and may administer oaths or take  
17 acknowledgment in respect of any book, record, paper, or memorandum.

18 (3) The ~~attorney general~~ Attorney General or a state's attorney shall  
19 serve notice of the time, place, and cause of ~~such~~ the examination or  
20 attendance, or notice of the cause of the demand for written responses, at least  
21 ten days prior to the date of ~~such~~ the examination, personally or by certified

1 mail, upon ~~such~~ the person at his or her principal place of business, or, if ~~such~~  
2 the place is not known, to his or her last known address.

3 (4) Any book, record, paper, memorandum, or other information  
4 produced by any person pursuant to this section shall not, unless otherwise  
5 ordered by a court of this ~~state~~ State for good cause shown, be disclosed to any  
6 person other than the authorized agent or representative of the ~~attorney general~~  
7 Attorney General or a state's attorney or another law enforcement officer  
8 engaged in legitimate law enforcement activities, unless with the consent of the  
9 person producing the same.

10 (5) This subsection ~~(a)~~ shall not be applicable to any criminal  
11 investigation or prosecution brought under the laws of this or any state.

12 (b)(1) A person upon whom a notice is served pursuant to the provisions of  
13 this section shall comply with the terms thereof unless otherwise provided by  
14 the order of a court of this ~~state~~ State.

15 (2) Any person who, with intent to avoid, evade, or prevent compliance,  
16 in whole or in part, with any civil investigation under this section, removes  
17 from any place, conceals, withholds, or destroys, mutilates, alters, or by any  
18 other means falsifies any documentary material in the possession, custody, or  
19 control of any person subject of any such notice, or mistakes or conceals any  
20 information, shall be ~~fined~~ subject to a civil penalty of not more than \$5,000.00

1 \$25,000.00 and to recovery for the Attorney General or state's attorney costs  
2 and fees for an action brought to enforce compliance with this section.

3 (c)(1) Whenever any person fails to comply with any notice served upon  
4 him or her under this section or whenever satisfactory copying or reproduction  
5 of ~~any such~~ material pursuant to this section cannot be done and ~~such the~~  
6 person refuses to surrender ~~such the~~ material, the ~~attorney general~~ Attorney  
7 General or a state's attorney may file, in the ~~superior court~~ Superior Court in  
8 which ~~such the~~ person resides or has his or her principal place of business, or  
9 in Washington ~~county~~ County if ~~such the~~ person is a nonresident or has no  
10 principal place of business in this ~~state~~ State, and serve upon ~~such the~~ person, a  
11 petition for an order of ~~such the~~ court for the enforcement of this section.

12 (2) Whenever ~~any a~~ petition is filed under this section, ~~such the~~ court  
13 shall have jurisdiction to hear and determine the matter ~~so~~ presented, and to  
14 enter ~~such order or~~ one or more orders as may be required to carry into effect  
15 the provisions of this section.

16 (3) ~~Any disobedience of any~~ A person who violates an order entered  
17 under this section by ~~any a~~ court shall be punished ~~as a~~ for contempt ~~thereof~~ of  
18 court.

1 Sec. 4. 9 V.S.A. § 2461e is amended to read:

2 § 2461e. REQUIREMENTS FOR GUARANTEED PRICE PLANS AND  
3 PREPAID CONTRACTS

4 (a)(1) Contract and solicitation requirements. A contract for the retail sale  
5 of home heating oil, kerosene, or liquefied petroleum gas that offers a  
6 guaranteed price plan, including a fixed price contract, a prepaid contract, a  
7 cost-plus contract, and any other similar terms, shall be in writing, and the  
8 terms and conditions of such price plans shall be disclosed. Such disclosure  
9 shall be in plain language and shall immediately follow the language  
10 concerning the price or service that could be affected and shall be printed in no  
11 less than 12-point boldface type of uniform font. A solicitation for the retail  
12 sale of home heating oil or liquefied petroleum gas that offers a guaranteed  
13 price plan that could become a contract upon a response from a consumer,  
14 including a fixed price contract, a prepaid contract, a cost-plus contract, and  
15 any other similar terms, shall be in writing, and the terms and conditions of  
16 such offer shall be disclosed in plain language.

17 \* \* \*

18 Sec. 5. EFFECTIVE DATE

19 This act shall take effect on July 1, 2013.