

1 H.551

2 Introduced by Representatives Greshin of Warren, Poirier of Barre City,  
3 Pearson of Burlington, Sharpe of Bristol and Woodward of  
4 Johnson

5 Referred to Committee on

6 Date:

7 Subject: Commerce and trade; propane; consumer protection

8 Statement of purpose: This bill proposes to require propane companies to sell  
9 in-ground tanks to customers at depreciated value rather than replacement  
10 value, and to limit fees charged to consumers for fuel delivery.

11 An act relating to protecting propane consumers

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

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

14 § 2461b. REGULATION OF PROPANE

15 (a)(1) In this section:

16 (A) “Consumer” means any person who purchases propane for  
17 consumption and not for resale, through a meter or has propane delivered to  
18 one or more storage tanks of ~~2000~~ 2,000 gallons or less.

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

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

3           (b) For the purpose of promoting business practices which are uniformly  
4 fair to sellers and which protect consumers, the attorney general shall  
5 promulgate necessary rules and regulations, including notice prior to  
6 disconnection, repayment agreements, minimum delivery, discrimination,  
7 security deposits, and the assessment of fees and charges.

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

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

15           (d) A seller shall not:

16           (1) assess a minimum usage fee;

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

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

1           (4) assess a delivery charge for delivery of propane during normal  
2 business hours;

3           (5) assess a delivery charge exceeding \$50.00 for delivery of propane  
4 outside of normal business hours;

5           (6) assess a fee to light a consumer's pilot light.

6           (e) When ~~terminating~~ service to a consumer is terminated, whether by the  
7 seller or by request of the consumer, a seller shall comply with the following  
8 requirements.

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

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

14                   (ii) to pump out or restock propane; or

15                   (iii) to terminate service.

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

19           (C) The owner of the premises or with the owner's written consent  
20 the consumer shall have 30 days from the date of termination of service to  
21 exercise a right of first refusal to purchase the seller's storage tank located on

1 the premises. The sale price of the tank shall reflect the depreciated value of  
2 the tank given its age and condition.

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

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

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

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

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

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

11          (f)(1) A seller of propane shall not refuse to deliver propane to a storage  
12 tank owned by a consumer if the consumer provides proof of ownership of the  
13 tank and the seller has conducted a safety check of the tank in accordance with  
14 NFPA 54 (National Fuel Gas Code) and NFPA 58 (Storage and Handling of  
15 Liquefied Petroleum Gas Code) of the National Fire Protection Association  
16 and complies with rules adopted by the attorney general governing propane.

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

20          (g) Nonpayment of the following charges may be the only basis for an  
21 interruption or disconnection of service:

- 1           (1) propane;
- 2           (2) leak or pressure test;
- 3           (3) safety check;
- 4           (4) restart of equipment;
- 5           (5) after-hours delivery;
- 6           (6) special trip for delivery; and
- 7           (7) meter read.

8           Sec. 2. EFFECTIVE DATE

9           This act shall take effect on passage.