

§1110. Requirements for price protection and prepaid contracts

1. Contract and solicitation requirements. A contract for the retail sale of home heating oil, kerosene or liquefied petroleum gas that offers a guaranteed price plan, including a prepaid contract and any other similar term, must be in writing and the terms and conditions of the price plan must be disclosed. The disclosure of terms and conditions must be in plain language, must immediately follow the language concerning the price or service that could be affected and must be printed in no less than 12-point boldface type of uniform font. A solicitation for the retail sale of home heating oil, kerosene or liquefied petroleum gas that offers a guaranteed price plan that could become a contract upon a response from a consumer, including a prepaid contract and any other similar term, must be in writing and the terms and conditions of that offer must be disclosed in plain language.

[PL 2005, c. 632, §1 (NEW).]

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

[PL 2011, c. 574, §1 (NEW).]

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

[PL 2011, c. 574, §1 (NEW).]

2. Security for prepaid contracts required; options. A home heating oil, kerosene or liquefied petroleum gas dealer may not enter into a prepaid contract to provide home heating oil, kerosene or liquefied petroleum gas to a consumer unless that dealer has obtained and maintains in accordance with subsection 3 any one of the following:

A. Heating oil, kerosene or liquefied petroleum gas contracts or other similar commitments that allow the dealer to purchase, at a fixed price, heating oil, kerosene or liquefied petroleum gas in an amount not less than 75% of the maximum number of gallons that the dealer is committed to deliver pursuant to all prepaid contracts entered into by the dealer; [PL 2005, c. 632, §1 (NEW).]

B. A surety bond in an amount not less than 50% of the total amount of funds paid to the dealer by consumers pursuant to all prepaid heating oil, kerosene or liquefied petroleum gas contracts entered into by the dealer; or [PL 2005, c. 632, §1 (NEW).]

C. A letter of credit in an amount not less than 100% of the total amount of funds paid to the dealer by consumers pursuant to all prepaid heating oil, kerosene or liquefied petroleum gas contracts entered into by the dealer. [PL 2005, c. 632, §1 (NEW).]

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3. Maintenance of security. A dealer shall maintain the amount of futures contracts or other similar commitments, the amount of the surety bond or the letter of credit required by subsection 2 for the period of time for which the prepaid home heating oil, kerosene or liquefied petroleum gas contracts

are effective, except that the amount of the futures contracts or surety bond may be reduced during such period of time to reflect any amount of home heating oil, kerosene or liquefied petroleum gas already delivered to and paid for by the consumer.

[PL 2005, c. 632, §1 (NEW).]

4. Disclosure; additional contract requirements. A prepaid home heating oil, kerosene or liquefied petroleum gas contract must indicate:

A. The amount of funds paid by the consumer to the dealer under the contract; [PL 2005, c. 632, §1 (NEW).]

B. The maximum number of gallons of home heating oil, kerosene or liquefied petroleum gas committed by the dealer for delivery to the consumer pursuant to the contract; and [PL 2005, c. 632, §1 (NEW).]

C. That the performance of the prepaid contract is secured by one of the options set forth in subsection 2. [PL 2005, c. 632, §1 (NEW).]

[PL 2005, c. 632, §1 (NEW).]

5. Reimbursement provision required. A prepaid home heating oil, kerosene or liquefied petroleum gas contract must provide that the contract price of any undelivered home heating oil, kerosene or liquefied petroleum gas owed to the consumer under the contract at the end date of the contract must be reimbursed to the consumer not later than 30 days after the end date of the contract unless the parties to the contract agree otherwise.

[PL 2005, c. 632, §1 (NEW).]

6. Enforcement. The Commissioner of Professional and Financial Regulation shall refer to the Attorney General for investigation any dealer that has filed a registration form under subsection 1-A and has failed to file a report demonstrating how the contracts are secured pursuant to subsection 1-B. [PL 2011, c. 574, §2 (NEW).]

7. Prosecution. The Attorney General may prosecute a person making a false statement on the report required by subsection 1-B for unsworn falsification under Title 17-A, section 453 and may prosecute failure to file the report required by subsection 1-B as an unfair trade practice.

[PL 2011, c. 574, §2 (NEW).]

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

[PL 2011, c. 574, §2 (NEW).]

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

[PL 2011, c. 574, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 632, §1 (NEW). PL 2011, c. 574, §§1, 2 (AMD).

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