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

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

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

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

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

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

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

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.

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.

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

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.

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.

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

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.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Administrative Services - Professional and Financial Regulation 0094

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

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$12,000	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$12,000	\$0

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

Effective 90 days following adjournment of the 125th
Legislature, Second Regular Session, unless otherwise indicated.