

HOUSE BILL No. 2905

By Representative Holland

2-14

9 AN ACT supplementing the Kansas consumer protection act; relating to
10 certain contracts for sale of home heating oil, kerosene or liquefied
11 petroleum gas; declaring certain acts to be unconscionable acts and
12 providing remedies therefor.
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14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. (a) A contract for the retail sale of home heating oil, ker-
16 osene or liquefied petroleum gas which offers a guaranteed price plan,
17 including fixed price contracts and any other similar terms, shall be in
18 writing and the terms and conditions of such price plans shall be dis-
19 closed. Such disclosure shall be in plain language and shall immediately
20 follow the language concerning the price or service that could be affected
21 and shall be printed in type no smaller than 12-point boldface type of
22 uniform font. A solicitation for the retail sale of home heating oil, kero-
23 sene or liquefied petroleum gas which offers a guaranteed price plan that
24 could become a contract upon a response from a consumer, including
25 fixed price contracts and any other similar terms, shall be in writing and
26 the terms and conditions of such offer shall be disclosed in plain language.

27 (b) (1) No home heating oil, kerosene or liquefied petroleum gas
28 supplier shall enter into a prepaid contract to provide home heating oil,
29 kerosene or liquefied petroleum gas to a consumer unless such supplier
30 has either:

31 (A) Within seven days after the acceptance of the contract obtained
32 and maintained heating oil, kerosene or liquefied petroleum gas contracts
33 or other similar commitments that allow the supplier to purchase, at a
34 fixed price, heating oil, kerosene or liquefied petroleum gas in an amount
35 not less than 75% of the maximum number of gallons that the supplier
36 is committed to deliver pursuant to all prepaid contracts entered into by
37 the supplier; or

38 (B) obtained and maintained a surety bond in an amount not less
39 than 50% of the total amount of funds paid to the supplier by consumers
40 pursuant to prepaid heating oil, kerosene or liquefied petroleum gas
41 contracts.

42 (2) A supplier shall maintain the amount of futures contracts or the
43 amount of the surety bond required by this subsection for the period of

1 time for which the prepaid home heating oil, kerosene or liquefied pe-
2 troleum gas contracts are effective, except that the amount of the futures
3 contracts or surety bond may be reduced during such period of time to
4 reflect any amount of home heating oil, kerosene or liquefied petroleum
5 gas already delivered to and paid for by the consumer.

6 (c) (1) A prepaid home heating oil, kerosene or liquefied petroleum
7 gas contract shall indicate:

8 (A) The amount of funds paid by the consumer to the supplier under
9 the contract;

10 (B) the maximum number of gallons of home heating oil, kerosene
11 or liquefied petroleum gas committed by the supplier for delivery to the
12 consumer pursuant to the contract; and

13 (C) that the performance of the prepaid contract is secured by one
14 of the two options described in subsection (b).

15 (2) Any contract described in this subsection shall provide that the
16 contract price of any undelivered home heating oil, kerosene or liquefied
17 petroleum gas owed to the consumer under the contract at the end date
18 of the contract shall be reimbursed to the consumer not later than 30
19 days after the end date of the contract unless the parties to the contract
20 agree otherwise.

21 (d) Violation of this section is an unconscionable act within the mean-
22 ing of K.S.A. 50-627, and amendments thereto.

23 (e) This section shall be part of and supplemental to the Kansas con-
24 sumer protection act.

25 Sec. 2. (a) In addition to any other remedies provided by law, a home
26 heating oil, kerosene or liquefied petroleum gas supplier may bring an
27 action against any person who supplies to the heating oil, kerosene or
28 liquefied petroleum gas supplier for resale any heating oil, kerosene or
29 liquefied petroleum for failure of such person to honor such person's
30 contract with the home heating oil, kerosene or liquefied petroleum gas
31 supplier. Such failure shall constitute an unconscionable act within the
32 meaning of K.S.A. 50-627, and amendments thereto.

33 (b) Any person alleging a violation of this act may bring a private
34 action to seek relief pursuant to K.S.A. 50-634 and 50-636, and amend-
35 ments thereto, and such home heating oil, kerosene or liquefied petro-
36 leum gas supplier shall be considered a consumer pursuant to K.S.A. 50-
37 624, and amendments thereto, for the purposes of such private action.

38 (c) This section shall be part of and supplemental to the Kansas con-
39 sumer protection act.

40 Sec. 3. This act shall take effect and be in force from and after its
41 publication in the statute book.