



Technical Bulletin #26

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Maine Attorney General

Winter Heating Rules

Since the mid-1970's the State of Maine's Attorney-General has had rules governing the sale of heating oil. These rules are designed to ensure that those who need heating oil receive their oil notwithstanding the fact that these customers may owe oil companies for previous deliveries.

These rules are in effect from October through April each year.

DEPARTMENT OF ATTORNEY

GENERAL

CHAPTER 100 TRADE PRACTICES IN THE SALE OF RESIDENTIAL HEATING OIL

SUMMARY: These rules describe unfair trade practices in the sale of residential heating oil by retail dealers. They are in effect from October 15 through April 30 of each year.

1. Definitions

- A. "Dealer" includes all retail oil dealers who sell home heating oil for use and not for resale.
- B. "Established delivery area" means the geographic area bounded by a retail dealer's delivery routes used to service established customers
- C. "Heating oil" means number 2 oil or kerosene, sold to heat the interior of a building used as a person's principal place of residence.

D. "Market price of heating oil" means the highest price per gallon of heating oil a dealer customarily charges his buyers in an established delivery area.

E. "Unscheduled delivery" means a delivery which causes the dealer to dispatch a truck along a delivery route he would not have otherwise taken during the day's regular working hours.

2. Violations

A violation of any of the following rules is an unfair trade practice.

3. All Established Customers Receive Dealer's Offered Services

A dealer may not discriminate unfairly among his established customers in the following areas:

- A. heating oil sales, including requests for immediate service, or additional charges for deliveries of oil below the minimum delivery requirement or unscheduled deliveries; and
- B. oil burner installation and service.

For the purpose of this rule, an "established customer" of a dealer includes any person whose last two heating oil purchases were made from the dealer.

4. Required Heating Oil Sales

A dealer must sell heating oil within its established delivery area to any person who is willing and able to pay cash. The dealer must make this sale even if-

- A. the person has not paid for a past sale of heating oil; or
- B. the person is not an established customer of the dealer

This rule also applies if payment is to be made in certified or cashier's check, commercial money order, or their equivalent, or if a government or community action agency has guaranteed to pay on behalf of the person the cost of the heating oil sale.

When a person requests 20 gallons or more of heating oil under this rule, the dealer must deliver the oil no later than his next scheduled delivery to the person's neighborhood.

5. Minimum Delivery Requirement

A dealer is required to make scheduled deliveries of 20 gallons or more. However, for any delivery below the following amount:

- A. 50% of the customer's tank; or
- B. 100 gallons, whichever is less,

the dealer may charge a penalty not to exceed \$5. No other penalty is permitted.

6. Surcharge Permitted for Unscheduled Delivery

When the dealer makes an unscheduled delivery at the request of a buyer, he may add a separate charge to his price. This surcharge may not exceed the actual additional costs incurred. No other surcharge is permitted.

Prior to accepting an order for an unscheduled delivery, the dealer shall inform the buyer of the approximate amount of the surcharge, the reason for the surcharge, and when his next scheduled delivery will take place.

7. Price Discrimination Prohibited

A dealer may not discriminate by charging some persons a price higher than his current market price of heating oil. Except for a penalty for a delivery below the minimum delivery requirement or a surcharge for an unscheduled delivery, no other penalties or surcharges are permitted.

8. Credit Discrimination Prohibited

A dealer must adhere to the prohibitions against discrimination in the Federal Equal Credit Opportunity Law, which is found at Title 15, 169 1 (a) through (c) of the United States Code Annotated and the State's Fair Credit Extension Act, which is found at Title 5, Maine Revised Statutes Annotated, Sections 4595 through 4598.

9. Notice of Credit Rejection or Change of Terms Required

If credit is denied, the dealer must so inform the credit applicant in writing. This notice must be given within 4 business days or if dealer uses a credit bureau, within 2 days of receiving the bureau's report.

Notice shall state the reasons for denial or inform the applicant of his right to request such reasons.

If the applicant requests the reasons credit was denied, the dealer must respond within 2 business days.

The dealer's response must be in writing if the applicant so requests.

A dealer must give 5 days advance notice of termination or alteration of credit terms and the reasons why.

If a person demands a credit oil delivery within the 5 days notice of termination period, the dealer need not sell him more oil than he needs to last through the notice period.

10. Reasonable Exceptions to these Rules

In adhering to these rules, a dealer may make reasonable exceptions favorable to classes of people with relatively low income, such as the elderly, recipients of public assistance, or other persons on fixed income.

11. Suspension dates

These rules will be in effect each year from October 15 through April 30.

12. Heating Oil Orders

When a dealer quotes to a person a specific heating oil price and the person places an order, the dealer must deliver the oil at that price unless the dealer has specifically stated to the person that:

A. The price per gallon is determined on the day the oil is actually delivered; and

B. The price on delivery day may be higher or lower than the quoted price. STATUTORY

AUTHORITY: 5 M.R.S.A., Section 207