

Bill as Introduced

HB 643 - AS INTRODUCED

2011 SESSION

11-0902
08/01

HOUSE BILL **643**

AN ACT relative to propane sales.

SPONSORS: Rep. Emerson, Ches 7; Rep. McDonnell, Merr 7; Rep. J. Johnson, Ches 6;
Rep. D. Reed, Merr 2; Sen. Barnes, Jr., Dist 17; Sen. Boutin, Dist 16

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill makes it a violation to charge a higher price or surcharge on propane to low-volume customers.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 643 - AS INTRODUCED

11-0902
08/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to propane sales.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; Sale of Propane. Amend RSA 339-B by inserting after section 16 the
2 following new subdivision:

3 **Sale of Propane**

4 **339-B:17 Sale of Propane.**

5 I. No propane dealer shall charge a higher price per gallon or tank to low-volume customers.

6 II. No propane dealer shall charge a penalty surcharge to low-volume customers.

7 III. For the purposes of this subdivision, "low-volume customer" means a customer requiring
8 no more than 3 tanks of propane per week.

9 **339-B:18 Penalty.** Any person, firm or corporation, or any officer, agent, servant or employee
10 thereof, who violates the provisions of this subdivision shall be guilty of a violation if a natural
11 person, or guilty of a misdemeanor if any other person.

12 **2 Effective Date.** This act shall take effect January 1, 2012.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 648

BILL TITLE: relative to propane sales.

DATE: 3-1-11

LOB ROOM: 302 **Time Public Hearing Called to Order:** 1055

Time Adjourned: 1106

(please circle if present)

Committee Members: Reps. Hunt, Coffey, Belanger, Flanders, Quandt, Headd, Nevins, Palfrey, Sullivan, Bergevin, Manuse, Mauro, McGuinness, Rice, Taylor, Meader, Gidge and Schlachman.

Bill Sponsors: Reps. Emerson, McDonnell, J. Johnson, D. Reed and Sens. Barnes and Boutin

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Susan Emerson, prime sponsor – Introduced bill. Brought bill on behalf of a constituent small quantity of gas was \$4 per gallon and large quantity was only \$2; believes it was price gouging.

***Joe Rose, Propane Gas Assn.** – He displayed and spoke about volume pricing; showed empty milk bottles and ???various prices, large, medium and small – all different price. Written testimony in file.

***Bill Anderson, Suburban Propane** – Opposes bill. Companies have fixed costs; handed out written testimony; copy in file.

Dan Feltes, NH Legal Assistance - Supports the bill. Does not believe penalty should be criminalized; should fall under the Consumer Protection Act. Fuel assistance is an issue. I don't believe the bill is going any where so I won't go into it other than to bring the issue to the attention of the committee.

***Donald Chagnon, Borderline Fuels** – Opposes bill. Handed out written testimony if this bill passed we would no longer service small users due to costs of doing business.

John Rider, Webber Energy Fuels – Opposes the bill. Addressed high costs and low volume sales to dealers.

Respectfully Submitted:

James F. Headd, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 643

BILL TITLE: relative to propane sales.

DATE: 3-1-11

LOB ROOM: 302

Time Public Hearing Called to Order: 1055

Time Adjourned: 1106

(please circle if present)

Committee Members: Reps. Hunt, Coffey, Belanger, Flanders, Quandt, Headd, Nevins, Palfrey, Sullivan, Bergevin, Manuse, Mauro, McGuinness, Rise, Taylor, Meader, Gidge and Schlachman.

Bill Sponsors: Reps. Emerson, McDonnell, J. Johnson, D. Reed and Sens. Barnes and Boutin

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

#1 Rep Susan Emerson - introduced Bill -
Brazil bill on behalf of a constituent -
small quantity of gas was \$4 per gal and
large quantity was \$2 - Believer
It was price gouging -

#2 JFF Rose - Propane Gas Assoc -
he displayed and spoke about volume
PRICING - showed empty milk bottle
and showed various PRICES - large - med
and small - all different PRICES -
WRITTEN Testimony in File

PL 2 HB 647

#3

Bill Anderson - opposes Bill
Companies have fixed costs
handed out written testimony -
copy in file

#4

Don Fettes NH legal
assistance. Supports bill -
does not believe penalty should
be criminalized - should fall
under the consumer protection
act -

Fuel assistance is an issue
he doesn't believe the bill is
going to where so I won't go into
it other than to bring the issue
to the attention of the committee

#5

Donald Chagnon - Borderline
fuels - opposes bill
handed out written testimony
if the bill passed we would
no longer service small users
due to costs of doing business

#6

Tim Riker - WEBER Energy
Fuel - addressed high costs
low volume sales to dealers

Testimony

Written Testimony of Joseph U. Rose, President and CEO of the Propane Gas Association of New England, 1024 Suncook Valley Hwy. Epsom, NH 03234 on March 1, 2011.

BILL ID: 2011 NH H.B. 643
TITLE: Relative to propane sales.
DISPOSITION: First Read -- Originating Chamber
STATUS: **01/25/2011** In House; Introduced 1/6/2011 and Referred to Commerce and Consumer Affairs;
02/09/2011 In House; Public Hearing: 3/1/2011
SPONSORS: Rep. Susan Emerson (R), Rep. John McDonnell (R), Rep. Jane Johnson (R), Rep. Dennis Reed (R), Sen. John Barnes (R), Sen. David Boutin (R)
COMMITTEE ASSIGNMENT: House Committee on Commerce and Consumer Affairs (hearing scheduled for Mar 1, 10:00 am)
SYNOPSIS: This bill makes it a violation to charge a higher price or surcharge on propane to low-volume customers.
SOURCE URL: <http://youtrack.multistate.com/cgi/citesource?h=b27624a62d400ba89b5e51fae9fb26b9&bit=2>

Distinguished members of the committee, my name is Joseph Rose. I am the President & CEO of the Propane Gas Association of New England, headquartered in Epsom, NH. I am here today representing the association and our 117 New Hampshire Member companies who employ 1524 New Hampshire citizens. Propane companies are private business' that compete for customers every day. Consumers have multiple choices of who they buy propane from.

This bill makes no sense to me. Volume discounts are available for a wide range of consumer purchases. I can go to the state liquor store and save 15% on a case of wine versus buying a single bottle. I understand that low volume consumers don't want to pay more, but let's use the example from Hood Dairy. I purchased these three cartons of milk about 10 days ago. The gallon is \$2.99. Half Gallon is \$1.99 or 33% more per ounce than the gallon. The quart is \$1.29 which would be \$5.16 per gallon or 73% more per ounce than the gallon price. Customers make choices on how much of any product to buy based on the quantity that they use.

A propane cooking account used about 3 gallons of propane a month, compared to a home heating customer who uses 1000 gallons per year. It cost's the same amount of money to pull the delivery truck in the yard to fill each tank, how could the unit price possibly be the same. This legislation, if you were to pass it will raise the cost of propane significantly for all New Hampshire consumers, and I would certainly hope that what is good for propane would also apply to all other goods like my milk, where consumers have a choice to buy in bulk based on what they use. It would be wonderful to buy a single roll of toilet paper at the same price per roll as the 24 pack. Great for cash flow, but the reality is that all goods would have to cost more than they do today, and that is contrary to the American enterprise system!

Please vote not to pass this bill because it makes no sense for New Hampshire consumers.

Testimony of Suburban Propane, L.P. re House Bill 643

Good Morning. My name is Bill Anderson and I am the New Hampshire General Manager of Suburban Propane. I am here today to urge that you oppose HB 643.

HB 643 would cause a number of adverse effects on propane consumers and propane companies. Suburban, like every other New Hampshire propane supplier, incurs **fixed business costs** in making a delivery. **These costs do not depend on the volume of propane delivered.** These costs include:

- Payroll costs of employing our drivers;
- Benefits costs;
- Employer Payroll Taxes;
- Liability insurance;
- Vehicle insurance;
- Payroll costs of managers and support staff;
- Plant Maintenance;
- Cost of delivery vehicles, their regular upkeep and repairs;
- Cost of diesel or other transportation fuel to operate delivery vehicles;
- Various property taxes and licensing fees paid to the State of New Hampshire;
- Business taxes
- Employee training to meet special requirements set by the State of New Hampshire for propane workers (CETP);
- Uniforms and employee protective equipment; and
- Extensive regulatory compliance costs to satisfy the requirements of the U.S. Department of Transportation, Homeland Security and OSHA.

All of these costs must be paid by a dealer simply to get a delivery driver and propane truck to the delivery address, regardless of the volume to be delivered. The only difference between making a low-gallon delivery and a higher-gallon delivery is the slightly longer period of time spent by the delivery person in filling the tank with additional gallons. In all other respects the costs incurred in appearing curbside to make a delivery remain the same for low-use and high-use customers and must be incurred irrespective of the number of gallons delivered.

HB 643 would deny propane dealers in this state the opportunity of recovering these business costs. As such, propane businesses would be forced to operate at a financial loss as a result of government action. There is no business in this state that could do so for long and remain viable. The adverse consequences of HB 643 would cause business shrinkage, lay offs of current propane workers, and potentially leave propane users without a supplier or with fewer supplier choices in a less competitive market.

In addition, HB 643 does not reflect the realities of propane consumption in New Hampshire. HB 643's definition of "low-volume customer," which is a customer requiring no more than 3 tanks of propane per week, would include 99% of the residential customer base of our company, and, no doubt, that of every other New Hampshire propane dealer. In the normal course, a residential customer would not require a delivery equal to the gallon storage capacity of even one tank per week. HB 643 does not distinguish between a residential customer and a commercial customer. "Low-volume customers" would include many of our commercial customers as well.

Suburban Propane began New Hampshire operations fifty-eight years ago in 1953. We currently employ 70 New Hampshire workers in four locations – Milford, Franklin, Lebanon and Nashua. Propane itself is one of the cleanest burning fuels available. Propane emits lower levels of carbon dioxide and particulates and doesn't produce sulfur dioxide, a primary cause of the greenhouse effect. Propane is non-toxic and vaporizes quickly, so it doesn't contaminate soil or groundwater.

In addition to serving New Hampshire propane users and employing a significant number of residents, the propane industry continues to make a significant financial contribution to the New Hampshire economy. I attach to this testimony the New Hampshire section of a 2004 Study of the Propane Industry's Impact on U.S. and State Economics indicating that at that time odorized propane's contribution to the state economy was \$227 million per year. We look forward to continued operations in New Hampshire, and ask you to oppose HB 643, which would adversely affect propane consumers and propane industry employees. Thank you for the opportunity to speak. I would be glad to take questions.



Study of the Propane Industry's Impact on U.S. and State Economics

November 2004

Prepared For:



www.propanecouncil.org



www.npga.org

Prepared for:

Mr. Rick Roldan
President and CEO
National Propane Gas Association
1150 17th Street, N.W.
Suite 310
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Mr. Roy Willis
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3.31 Odorized Propane's Impact on New Hampshire Economy

- Odorized propane's contribution to the state economy is \$227 million per year, including both direct and indirect economic effects.
- Direct value added by odorized propane industry
 - Production: \$ 0.0 million
 - Transportation, Storage, and Wholesaling \$ 1.2 million
 - Retailing \$84.8 million
 - Total \$86.0 million
- Total employment in state propane industry is 274 people. The retail sector alone employs 262.
- Market value of odorized propane sold in state is \$154 million.
- Odorized Sales Breakout (by Volume):
 - 61.5% residential
 - 15.6% commercial
 - 2.0% cylinder
 - 2.8% internal combustion
 - 18.1% industrial
 - 0.0% farm
- 51,000 households in state are heated by propane.

BILL ID: 2011 NH H.B. 643
TITLE: Relative to Propane Sales
DISPOSITION: First Read – Originating Chamber
STATUS: 1/25/2011 In House; Introduced 1/6/2011 and Referred to Commerce and Consumer Affairs;
2/9/2011 In House; Public Hearing 3/1/2011
SPONSORS: Rep. Susan Emerson (R), Rep. John McDonnell (R), Rep. Jane Johnson (R), Rep. Dennis Reed (R), Sen. John Barnes (R), Sen. David Boutin (R)
COMMITTEE ASSIGNMENT: House Committee on Commerce and Community Affairs (hearing scheduled for March 1, at 10 A.M.)
SYNOPSIS: This bill makes it a violation to charge a higher price or surcharge on propane low-volume customers.

Distinguished Members of the Committee, my name is Donald Chagnon. I am a partner in Borderline Fuels in Somersworth NH. We create jobs here in NH paying quality wages while providing benefits to our employees.

I was born and raised in NH. After 28 years in corporate life managing heating oil and propane companies in every state in the Northeast, I decided to leave that life and return to my place of birth and buy a small heating oil and propane company.

One of the reasons for moving back here was that compared to the rest of New England, NH had always been a business friendly state that was governed by ordinary citizens with common sense. In reading this bill however, I truly cannot understand how any thought went in to the consequences of HB 643.

This bill would leave propane dealers such as Borderline Fuels with three choices.

1. Deliver to low volume users at a loss on every delivery.
2. Raise the price to those that are using it for heat.
3. Stop delivering to low volume users.

Option 1 is obviously not an option for any business person that wants to stay in business. That is one that I along with most dealers will not do.

Option 2 should create quite a stir among the voters as we charge them a higher rate because of HB 643. To raise the rate for people that use this as their heating source doesn't seem like the kind of thing the legislature would want to pass on. I don't know many of my customers that can afford the higher price.

Option 3 is the one Borderline Fuels and most propane dealers will choose. Let's consider that a lot of small volume users will then be purchasing tanks that haven't been purged, taking them to a pump station to fill for the first time, then disconnecting their propane tanks on their own, transporting them to a pump station for refill (probably without any safety features as required by law), then doing a connection themselves. This will eventually result in a propane incident that will most likely cause loss of property and/or life. It doesn't seem like something that people would want their legislature to enact.

A new propane delivery vehicle costs in excess of \$125,000. The cost of fuel is currently over \$3.50 a gallon, plus maintenance registration and regulated rules and qualifications, putting the costs in excess of \$1.30 per mile to operate a propane delivery vehicle. This is just for the vehicle, never mind people, tanks and product.

This per mile cost is the same whether a customer is receiving nine gallons or 300 gallons. The average propane cooking customer uses three gallons per month. The average whole house heating customer uses about 100 gallons per month. If I travel within a 30 mile radius of my location and you are the average 15 miles away, it costs me \$19.50 just to drive my truck there. This does not include overhead, the driver, benefits and everything else when operating this vehicle.

Under the proposed HB 643 I would have to charge the same price per gallon to a customer using 36 gallons a year as one using 1,200 gallons per year. If I am making four deliveries per year to each of these I am getting about a nine gallon delivery into a cooking account and about a 300 gallon delivery into a heating account. That means that in delivering to that 36 gallon per year customer my average cost per gallon FOR JUST THE VEHICLE TRAVEL is in excess of \$2.00 per gallon where as to the 1,200 gallon per year customers it is less than \$.07 a gallon. How can you justify these customers paying the same price? Thinking these customers should pay the same price flies in the face of common business practice. Nearly everything we buy today offers a discount in bulk purchasing. If you change this process for propane I would expect you are going to do the same thing for milk, grain, mulch, milk, etc.

We have yet to touch on the fact that in most cases we supply the tank, regulator, piping, pad and installation of these tanks. Any business must get a return on their assets to stay in business. Just as you would not require a car company to leave a Lexus in my yard in case I want to use it, you wouldn't require us to leave this equipment at someone's home just in case they want to use it. However by saying we cannot charge for low use customers, you are doing just that. This again means I would pick up every tank I have sitting out for cooking, generators, fireplace log sets and all other low or no volume users. They will then be going to Home Depot or someplace else to purchase, fill and install their own tanks and regulators without any training or experience. This could create a very grave situation for the State Fire Marshall and the local fire departments.

I have no doubt that the introduction of HB 643 was well intended, but the results if HB 643 is passed will not only be detrimental to the propane companies, but also to the citizens of NH.

Thank you for your time and consideration.

Donald Chagnon
Managing Partner
Borderline Fuels
35 Centre Road
Somersworth NH 03878
603-692-3022
dchagnon@borderlinefuels.com

Voting Sheets

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 643

BILL TITLE: relative to propane sales.

DATE: 3-9-11

LOB ROOM: 302

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Sullivan

Seconded by Rep. Coffey

Vote: 15-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: Consent or Regular (Circle One)

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Mary Allen, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 643

BILL TITLE: relative to propane sales.

DATE: 3-9-11

LOB ROOM: 302

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Sullivan

Seconded by Rep. C. Allen

Vote: 15-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: Consent or Regular (Circle One)

(Vote to place on Consent Calendar must be unanimous.)

15-0

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Mary Allen, Clerk

COMMERCE AND CONSUMER AFFAIRS

Bill #: HB 643 Title: relative to propane sales

PH Date: 3, 9, 11

Exec Session Date: 3, 3, 11

Motion: ITL

Amendment #: _____

MEMBER	YEAS	NAYS
Hunt, John B, Chairman	/	
Coffey, Jennifer R, V Chairman	/	
Belanger, Ronald J	/	
Flanders, Donald H	/	
Quandt, Matt J	/	
Headd, James F	/	
Nevins, Chris F	/	
Palfrey, David J	/	
Sullivan, James M	/	
Bergevin, Jerry E	/	
Manuse, Andrew J	/	
Mauro, Donna C	/	
McGuinness, Sean M	/	
Rice, Frederick C	/	
Taylor, Kathleen N	/	
Meador, David R	/	
Gidge, Kenneth N	/	
Schlachman, Donna L	/	

15-0

Committee Report

CONSENT CALENDAR

March 16, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on COMMERCE AND CONSUMER
AFFAIRS to which was referred HB643,**

**AN ACT relative to propane sales. Having considered
the same, report the same with the following**

**Resolution: RESOLVED, That it is INEXPEDIENT TO
LEGISLATE.**

Rep. James M Sullivan

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	COMMERCE AND CONSUMER AFFAIRS
Bill Number:	HB643
Title:	relative to propane sales.
Date:	March 9, 2011
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The bill made it a violation to charge a higher price or surcharge on propane delivered to low-volume users. The committee took testimony in various examples as to why deliveries in different forms or levels did indeed have fixed costs associated with the act of delivery, and that recovery of the costs justified pricing differences.

Vote 15-0.

Rep. James M Sullivan
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

COMMERCE AND CONSUMER AFFAIRS

HB643, relative to propane sales. **INEXPEDIENT TO LEGISLATE.**

Rep. James M Sullivan for COMMERCE AND CONSUMER AFFAIRS. The bill made it a violation to charge a higher price or surcharge on propane delivered to low-volume users. The committee took testimony in various examples as to why deliveries in different forms or levels did indeed have fixed costs associated with the act of delivery, and that recovery of the costs justified pricing differences.

Vote 15-0.

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

COMMITTEE: Commerce
BILL NUMBER: HB 643
TITLE: Relative to propane ~~retail~~ sales and pricing
to low-volume customers
DATE: 3/2/11 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
 OUGHT TO PASS W/ AMENDMENT
 INEXPEDIENT TO LEGISLATE
 INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. _____


STATEMENT OF INTENT:

The bill ~~passed~~ made it a violation to charge a higher price or surcharge on propane delivered to low-volume users. The committee took testimony in various examples as to why ~~various~~ deliveries in different forms or levels did indeed have fixed costs associated with the act of delivery and that recovery of the costs justified pricing differences.

COMMITTEE VOTE: 14-0

- Copy to Committee Bill File
- Use Another Report for Minority Report

RESPECTFULLY SUBMITTED,

Rep.  (3A)
For the Committee

HB 643

Rep. James M. Sullivan

ITL

CC

15-0

The bill made it a violation to charge a higher price or surcharge on propane delivered to low-volume users. The committee took testimony in various examples as to why deliveries in different forms or levels did indeed have fixed costs associated with the act of delivery, and that recovery of the costs justified pricing differences.