

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1084

Short Title: Revise LPG Dealer Requirements.

(Public)

Sponsors: Representative Hill.

Referred to: Insurance, if favorable, Commerce, Small Business, and Entrepreneurship.

April 7, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LP GAS LAW TO CREATE CLASSES OF DEALERS FOR THE PURPOSE OF INSURANCE REQUIREMENTS, TO CLARIFY THE AUTHORITY TO CONDUCT INSPECTIONS, TO REQUIRE THE REPORTING OF LP GAS ACCIDENTS, TO INCREASE CIVIL PENALTIES, AND TO MAKE TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 119-56 reads as rewritten:

"§ 119-56. Registration of dealers; liability insurance or substitute required.

A person shall not hold himself out or commence operation as a dealer without first having registered as herein provided. A dealer shall annually on or before January 1 of each year register with the Commissioner on a form to be furnished by the Commissioner provided in this section. Such form shall give the name and address of the dealer, the place or places of and type or types of business ~~of~~ of such dealer, and such other pertinent information as the Commissioner may deem necessary. The registration issued to a dealer shall expire automatically upon the expiration, termination, or cancellation of the policy of insurance required by this section.

There shall be two classes of dealers:

- (1) A class A dealer is one who engages in the transportation of liquefied petroleum gas.
- (2) A class B dealer is one who does not engage in the transportation of liquefied petroleum gas.

~~A dealer shall obtain and maintain comprehensive general liability insurance including product liability of one hundred thousand dollars (\$100,000) combined single limits and, when applicable, comprehensive automobile liability insurance of one hundred thousand dollars (\$100,000) combined single limits. A class A dealer shall obtain and maintain comprehensive general liability insurance, including product liability, of one million dollars (\$1,000,000) combined single limit, and motor vehicle liability insurance of one million dollars (\$1,000,000). A class B dealer shall obtain and maintain comprehensive general liability insurance, including product liability, of one hundred thousand dollars (\$100,000) combined single limit.~~ Verification of said insurance coverage shall be made in a manner satisfactory to the Commissioner. In lieu of insurance, the dealer may file and maintain a bond, certificate of deposit or irrevocable letter of credit in a form satisfactory to the Commissioner which provides protection for the public in the same amounts and to the same extent as said insurance.

The provisions of this section shall not apply to a dealer who retails liquefied petroleum gas in containers of less than 50 pounds water capacity and which retailing does not involve the filling or transportation of such containers."



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1 **SECTION 2.** G.S. 119-57 reads as rewritten:

2 "**§ 119-57. Administration of Article; rules and regulations given force and effect of law.**

3 It shall be the duty of the Commissioner to administer all the provisions of this Article and
4 all the rules and regulations made and promulgated under this Article; to conduct inspections of
5 liquefied petroleum gas containers and installations; to investigate for violations of this Article
6 and the rules and regulations adopted pursuant to the provisions thereof, and to prosecute
7 violations of this Article or of such rules and regulations adopted pursuant to the provisions
8 thereof."

9 **SECTION 3.** G.S. 119-58(a) reads as rewritten:

10 "**§ 119-58. Unlawful acts.**

11 (a) It shall be an unlawful act for any person to:

12 (1) Sell any liquefied petroleum gas burning appliance designed or built for
13 domestic use that has not been approved by the American Gas Association,
14 Inc., the Underwriters Laboratory, Inc., or other laboratory approved by the
15 Building Code Council.

16 (2) Repealed by Session Laws 1999-344, s. 1, effective July 22, 1999, and
17 applicable to liquefied petroleum gas burning appliances installed on and
18 after that date.

19 (3) Repealed by Session Laws 1999-344, s. 1, effective July 22, 1999, and
20 applicable to liquefied petroleum gas burning appliances installed on and
21 after that date.

22 (4) Fill a consumer tank or container in excess of 85 percent (85%) of its water
23 capacity, or to fill a tank or container on the premises of a consumer that is
24 not equipped with a fill tube or gauge; provided, the tank or container may
25 be filled by weight if the tank or container is weighed before and after
26 filling.

27 (5) Disconnect an appliance from a gas supply line without capping or plugging
28 the line before leaving the premises.

29 (6) Turn on the gas after reestablishing an interrupted service without first
30 having checked and closed all gas outlets.

31 (6a) As a dealer, fail to report to the Commissioner any incident involving the
32 dealer's company related to the transport, storage, or transfer of liquefied
33 petroleum gas that results in:

34 a. A release of liquefied petroleum gas in excess of 100 gallons by
35 liquid measure;

36 b. Death or serious injury requiring hospitalization; or

37 c. Property damage in excess of one thousand dollars (\$1,000).

38 Notification shall be made as soon as practicable, but no later than three
39 business days after the incident. Motor vehicle accidents not involving the
40 release of liquefied petroleum gas are not required to be reported under this
41 subdivision.

42 (7) Violate any provisions of this Article or any rules adopted pursuant to this
43 Article."

44 **SECTION 4.** G.S. 119-59 reads as rewritten:

45 "**§ 119-59. Sanctions for violations.**

46 (a) Criminal. – A dealer who violates a provision of this Article or a rule adopted under
47 it is guilty of a Class 1 misdemeanor.

48 (b) Injunction. – The Commissioner or an agent of the Commissioner may apply to any
49 superior court judge and the court may temporarily restrain or preliminarily or permanently
50 enjoin any violation of this Article or a rule adopted under it.

1 (c) Civil Penalty. – The Commissioner may assess a civil penalty against any person
2 who violates a provision of this Article or a rule adopted under it. The penalty may not exceed
3 ~~one hundred dollars (\$100.00)~~ three hundred dollars (\$300.00) for the first violation, ~~three~~
4 ~~hundred dollars (\$300.00)~~ five hundred dollars (\$500.00) for a second violation, and ~~five~~
5 ~~hundred dollars (\$500.00)~~ one thousand dollars (\$1,000) for a third or subsequent violation. In
6 determining the amount of a penalty, the Commissioner shall consider the degree and extent of
7 harm or potential harm that has resulted or could have resulted from the violation. ~~The~~
8 ~~Commissioner may not assess a civil penalty against a person until the Commissioner has~~
9 ~~notified the person of the alleged violation and has given the person at least 45 days to correct~~
10 ~~or cease the alleged violation. A notice may be served by any means authorized by G.S. 1A-1,~~
11 ~~Rule 4.~~ The clear proceeds of civil penalties assessed pursuant to this subsection shall be
12 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

13 (d) Registration. – The Commissioner may deny, suspend, or revoke the registration of
14 a dealer who violates a provision of this Article or a rule adopted under it."

15 **SECTION 5.** G.S. 119-61 reads as rewritten:

16 "**§ 119-61. Replacement data plates for ~~liquified~~-liquefied petroleum gas tanks.**

17 A ~~liquified~~-liquefied petroleum gas tank of 120 gallons or more that is subject to the
18 American Society of Mechanical Engineers (ASME) Code must have a data plate indicating
19 that it was built in accordance with that Code. The Commissioner may issue a data plate to
20 replace a rusting or partially detached data plate on a ~~liquified~~-liquefied petroleum gas tank.
21 The Commissioner shall charge a person to whom a replacement data plate is issued a fee of
22 twenty dollars (\$20.00) for the plate. Fees collected under this section shall be credited to the
23 Department of Agriculture and Consumer Services and applied to the cost of issuing
24 replacement data plates."

25 **SECTION 6.** This act becomes effective October 1, 2009.