

[Second Reprint]

ASSEMBLY, No. 2015

STATE OF NEW JERSEY

212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

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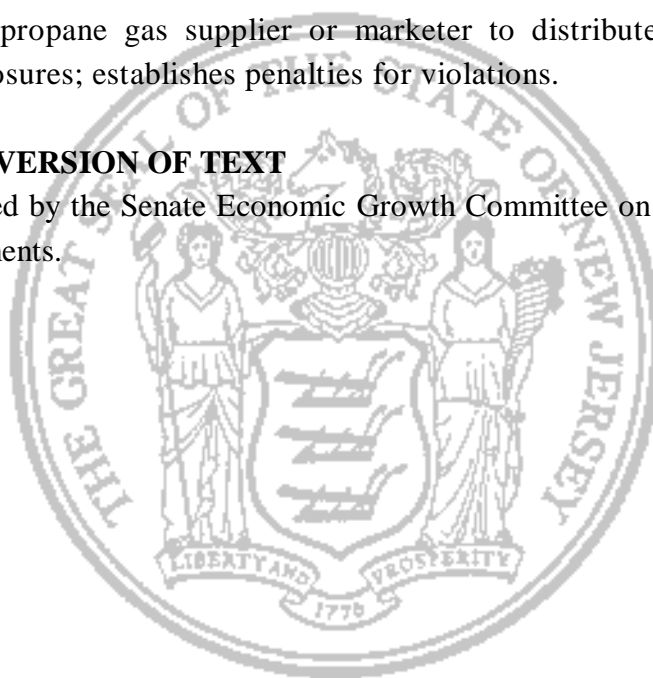
Assemblymen Conaway, Prieto, Senators Connors and Asselta

SYNOPSIS

Requires propane gas supplier or marketer to distribute to customers certain disclosures; establishes penalties for violations.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on May 24, 2007, with amendments.



(Sponsorship Updated As Of: 6/22/2007)

1 AN ACT concerning propane gas service contracts and
 2 supplementing Title 52 of the Revised Statutes.

3
 4 **BE IT ENACTED** by the Senate and General Assembly of the State
 5 of New Jersey:

6
 7 1. This act shall be known and may be cited as the "Propane
 8 Gas ²~~[Consumer]~~ Customer² Protection Act."

9
 10 2. As used in this act:

11 "Act" means the "Propane Gas ²~~[Consumer]~~ Customer²
 12 Protection Act."

13 "Department" means the Department of Community Affairs.

14 "Propane" means any of the forms of liquefied petroleum
 15 products, including propane, propylene, butane, isobutane, and
 16 butylene, or any mixture of these hydrocarbons, that is utilized for
 17 residential and commercial heating purposes and for various
 18 appliances and fixtures, including, but not limited to, clothes
 19 washers and dryers, grills, lighting and electricity-producing fuel
 20 cells.

21 "Propane gas supplier ²~~["]~~² or ²~~["]~~² marketer" ²or "supplier or
 22 marketer"² means a duly licensed business that takes title to
 23 propane gas and then assumes the contractual and legal obligation
 24 to provide propane gas to an end-user customer or customers.

25 ¹"Propane services" ²or "services"² means the performing of
 26 safety and leak testing of, and the performing of installation,
 27 maintenance, repair, ²removal, ² adjustment and other services to,
 28 propane appliances including, without limitation, ranges, water
 29 heaters, heaters, furnaces, containers and other propane fueled
 30 systems, for residential and commercial applications ²~~[and in~~
 31 connection with construction projects]² .¹

32
 33 3. a. Within 180 days following the effective date of this act,
 34 the department shall adopt rules and regulations pursuant to the
 35 "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et
 36 seq.) requiring that propane gas suppliers or marketers distribute to
 37 ²~~[any]~~ each² customer a ²~~["Propane Consumer's Bill of Rights"~~
 38 describing] description of² the terms of ²~~[its]~~ their² plans or
 39 contracts for ²the sale of² propane ²~~[service]~~ and propane services²
 40 in a plain and conspicuous manner ²and providing for certification
 41 of persons as qualified to engage in the sale of propane and to
 42 perform propane services pursuant to subsection c. of this section² .

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ATU committee amendments adopted February 23, 2006.

²Senate SEG committee amendments adopted May 24, 2007.

- 1 b. The ²["Propane Consumer's Bill of Rights"] description²
2 required by subsection a. of this section shall contain the following
3 information:
- 4 (1) ²["Charges"] The supplier's or marketer's charges² and
5 pricing policies for propane ²["gas service"] and propane services²
6 that ²are disclosed in a format including a price conversion chart
7 that will assist a customer to compare price offers from different
8 propane suppliers or marketers on a uniform basis which² an
9 average person can understand and use to do comparative ²["price"]²
10 shopping ²["and comparative service and"] for propane, propane
11 services and for a² supplier ²["shopping"] or marketer²;
- 12 (2) Notification of the right of ²["consumers"] customers² to
13 obtain ²the supplier's or marketer's² current prices of propane ²and
14 propane services² over the telephone, by ²["fax"] facsimile²
15 transmission or by any other electronic or written means including
16 any additional charges that may be included in the plan or contract
17 for any other items related to the purchase of propane ²and propane
18 services²;
- 19 (3) Whether the ²supplier's or marketer's² price of propane
20 ²["gas service"]and propane services² may vary depending on
21 non-scheduled or irregular deliveries ²of propane, or the provision
22 of propane services on weekends, nights, holidays or at other times
23 outside of the normal weekday hours², the criteria for determining
24 what constitutes a non-scheduled or irregular delivery, ²or outside
25 of normal weekday hours,² and the cost of non-scheduled or
26 irregular delivery if propane is provided outside of regular delivery
27 ², or if propane services are provided outside of normal weekday
28 hours²;
- 29 (4) The amount of any additional charges that may ²["apply"] be
30 charged by that supplier or marketer² to install a container or any
31 other related equipment that may be needed ²to store and utilize
32 propane², the amount of any container rental fees that may ²["apply"]
33 be charged by that supplier or marketer², notice of the
34 ²["consumer's"] customer's² right to use the ²["consumer's"]
35 customer's² own container and regulator provided that the container
36 and regulator ²have been verified by the supplier or marketer to²
37 meet ²current² safety and licensing standards, and the cost charged
38 by the supplier or marketer to verify whether the ²["consumer's"]
39 customer's² container and regulator meet current standards and
40 regulations;
- 41 (5) Criteria used to determine ²["the"] that supplier's or
42 marketer's² pricing structure ²["of"] for² propane ²["gas service"] or
43 propane services², including such criteria as annual usage, the area

1 where the ²[consumer] customer² lives, the quantity ²or time² of
 2 the delivery or other factors;

3 ²[(6)] (6)² A clear and concise written description of the services
 4 provided under a consumer's plan or contract, including a price
 5 conversion chart that will allow a consumer to compare price offers
 6 from different propane gas suppliers or marketers on a uniform
 7 basis;]²

8 ²[(7)] (6)² Notice of the right to be contacted ²by that supplier
 9 or marketer² at least seven business days before the propane
 10 ²[gas]² supplier or marketer may discontinue further ²propane²
 11 deliveries ²[of service]² due to nonpayment;

12 ²[(8)] (7)² Notice of the ²[consumer's] customer's² right to
 13 receive written verification that the propane ²[gas]² supplier or
 14 marketer is licensed by the New Jersey Department of Community
 15 Affairs;

16 ²[(9)] (8)² Notice of the ²[consumer's] customer's² right to
 17 change propane ²[gas]² suppliers or marketers, consistent with the
 18 terms of the ²[consumer's] customer's² plan or contract, if the
 19 ²[consumer] customer² is dissatisfied with price or ²[service ¹or
 20 any other legal agreement in addition to price or service¹] services
 21 or for any other reason²;

22 ²[(10)] (9)² Notice of whether a ²[consumer] customer² is
 23 required to call for delivery ²of propane² or if the deliveries are
 24 automatic, how often the automatic delivery will be ²made², ¹[the
 25 day on which the deliveries will be made,]¹ whether the deliveries
 26 will be made on weekends and holidays and ²,² if so, whether there
 27 are additional charges to make deliveries on weekends and holidays
 28 ², and if the customer is to receive automatic delivery, whether the
 29 customer should inform the supplier or marketer of any changes in
 30 the customer's circumstances that might change the rate at which
 31 the customer uses propane²;

32 ²[(11)] (10)² Notice of whether there is any minimal amount of
 33 propane per delivery, how many days a ²[consumer] customer² has
 34 to pay a bill after ²the² delivery of propane ²[gas]² is made ²or
 35 propane services are provided, as the case may be,² and how many
 36 days before late fees are charged to a ²[consumer] customer² and
 37 what the ²supplier's or² marketer's policy is for ²the² delivery of
 38 propane ²[gas] or the provision of propane services², if needed,
 39 during the winter when a ²[consumer] customer² may have
 40 outstanding debt; ¹[and]

41 ²[(12)] (11)² Notice of the provisions contained within
 42 subsection c. of this section; ²[and]² ¹

43 ¹[(12)] ²[(13)]¹ (12) If desired by the supplier or marketer, a
 44 statement that nothing in this description is a waiver or amendment

1 of the contract or plan between the supplier or marketer and the
2 customer, but is merely a summary of the department's regulations
3 for the convenience of the customer; and

4 (13)² Any other information that the department considers
5 appropriate to ensure that ²[consumers] customers² of propane
6 ²[gas] suppliers or marketers² are fully informed of the terms of
7 their plans or contracts.

8 ¹c. To ensure the safety of this State's propane ²[consumers]
9 customers², any ²[consumer] customer² who desires to cause
10 propane services to be performed ²[to any propane appliance shall
11 provide not less than three business days' prior actual notice to the
12 propane supplier or marketer that regularly supplies such consumer
13 with propane] should ensure that any such propane services are
14 performed only by persons certified by the department pursuant to
15 the regulations to be adopted pursuant to paragraph (1) of this
16 subsection².

17 ²[(1) In the event a consumer, who shall have failed to provide
18 the notice to the consumer's regular propane gas supplier or
19 marketer required by this subsection, shall suffer any injury,
20 damage or loss as a proximate consequence of any negligent
21 installation, repair, replacement, maintenance, modification,
22 adjustment or other service to any propane appliance or component
23 thereof, no legal action shall be commenced or maintained against
24 such consumer's regular propane gas supplier or marketer for such
25 injury, damages or loss.

26 (2) In the event a consumer or any person shall suffer any
27 injury, damage or loss as a proximate consequence of the
28 consumer's or any other person's using any propane equipment or
29 appliance in a manner or for any purpose other than that for which
30 the equipment or appliance was originally intended by the
31 manufacturer thereof, no legal action shall be commenced or
32 maintained against such propane gas supplier or marketer for such
33 injury, damages or loss.

34 (3) All propane gas suppliers and marketers shall document and
35 maintain, in written or electronic format, all notices received from
36 consumers pursuant to this subsection for a period of five years.

37 (4) No propane gas supplier or marketer shall be subject to any
38 award of punitive, special or exemplary damages except upon a
39 showing, by clear and convincing evidence, of gross negligence or
40 willful misconduct.¹ (1) The department, in consultation with and
41 upon the advice and recommendation of the Liquified Petroleum
42 Gas Education and Safety Board, shall promulgate rules and
43 regulations for the certification and competency testing of all
44 persons engaged in the sale of propane and performing propane
45 services, and for the dissemination to the public of information

1 regarding the current certification, or the lack thereof, of persons
2 offering to perform propane services in this State.

3 (2) All persons who are certified by the department shall be
4 legally responsible for the propane services they perform.²

5 ¹[c.] d.¹ Propane gas suppliers or marketers shall provide the
6 information required by subsection b. of this section to a
7 ²[consumer] customer² prior to entering into any contract with a
8 ²[consumer] customer² for ²the delivery of² propane ²[gas service]
9 or propane services², upon renewal of an existing contract and in
10 response to a request from a customer.

11 ¹[d.] e.¹ The department shall adopt rules and regulations
12 directing propane ²[gas]² suppliers and marketers to publish the
13 information required by subsection b. of this section in a format that
14 is clear, uniform and designed to ensure that ²[consumers]
15 customers² may accurately compare the true cost of services among
16 different suppliers or marketers.

17 ¹[e.] f.¹ The department shall also require propane ²[gas]²
18 suppliers and marketers to meet the disclosure requirements in
19 subsection b. of this section in advertising to the extent allowed by
20 the advertising medium.

21
22 4. Any propane gas supplier or marketer who neglects or
23 knowingly fails to comply with the requirements of this act or of the
24 regulations issued thereunder shall be subject to a penalty not to
25 exceed \$1,000 per violation, which penalty may be imposed by the
26 department and recovered in a civil action by a summary
27 proceeding pursuant to the "Penalty Enforcement Law of 1999,"
28 P.L.1999, c.274 (C.2A:58-10 et seq.). Payment of any such penalty
29 shall be remitted to the department.

30
31 5. The provisions of this act are severable. If any phrase,
32 clause, sentence, provision or section is declared to be invalid or
33 preempted by federal law or regulation, the validity of the
34 remainder of this act shall not be affected thereby.

35
36 6. This act shall take effect immediately.