

P.L. 2007, CHAPTER 150, *approved August 21, 2007*
Assembly, No. 2015 (*Second Reprint*)

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" ²~~or "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" ²~~or "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 ²~~the sale of~~² propane ²~~[service]~~ and propane services²
40 in a plain and conspicuous manner ²~~and providing for certification~~

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 of persons as qualified to engage in the sale of propane and to
 2 perform propane services pursuant to subsection c. of this section² .

3 b. The ²["Propane Consumer's Bill of Rights"] description²
 4 required by subsection a. of this section shall contain the following
 5 information:

6 (1) ²["Charges"] The supplier's or marketer's charges² and
 7 pricing policies for propane ²["gas service"] and propane services²
 8 that ²are disclosed in a format including a price conversion chart
 9 that will assist a customer to compare price offers from different
 10 propane suppliers or marketers on a uniform basis which² an
 11 average person can understand and use to do comparative ²["price"]²
 12 shopping ²["and comparative service and"] for propane, propane
 13 services and for a² supplier ²["shopping"] or marketer²;

14 (2) Notification of the right of ²["consumers"] customers² to
 15 obtain ²the supplier's or marketer's² current prices of propane ²and
 16 propane services² over the telephone, by ²["fax"] facsimile²
 17 transmission or by any other electronic or written means including
 18 any additional charges that may be included in the plan or contract
 19 for any other items related to the purchase of propane ²and propane
 20 services²;

21 (3) Whether the ²supplier's or marketer's² price of propane
 22 ²["gas service"]and propane services² may vary depending on
 23 non-scheduled or irregular deliveries ²of propane, or the provision
 24 of propane services on weekends, nights, holidays or at other times
 25 outside of the normal weekday hours², the criteria for determining
 26 what constitutes a non-scheduled or irregular delivery, ²or outside
 27 of normal weekday hours,² and the cost of non-scheduled or
 28 irregular delivery if propane is provided outside of regular delivery
 29 ², or if propane services are provided outside of normal weekday
 30 hours²;

31 (4) The amount of any additional charges that may ²["apply"] be
 32 charged by that supplier or marketer² to install a container or any
 33 other related equipment that may be needed ²to store and utilize
 34 propane², the amount of any container rental fees that may ²["apply"]
 35 be charged by that supplier or marketer², notice of the
 36 ²["consumer's"] customer's² right to use the ²["consumer's"]
 37 customer's² own container and regulator provided that the container
 38 and regulator ²have been verified by the supplier or marketer to²
 39 meet ²current² safety and licensing standards, and the cost charged
 40 by the supplier or marketer to verify whether the ²["consumer's"]
 41 customer's² container and regulator meet current standards and
 42 regulations;

43 (5) Criteria used to determine ²["the"] that supplier's or
 44 marketer's² pricing structure ²["of"] for² propane ²["gas service"] or

1 propane services², including such criteria as annual usage, the area
 2 where the ²[consumer] customer² lives, the quantity ²or time² of
 3 the delivery or other factors;

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

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

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

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

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

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

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

1 ¹[(12)] ²[(13)]¹ (12) If desired by the supplier or marketer, a
2 statement that nothing in this description is a waiver or amendment
3 of the contract or plan between the supplier or marketer and the
4 customer, but is merely a summary of the department's regulations
5 for the convenience of the customer; and

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

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

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

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

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

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

1 services, and for the dissemination to the public of information
2 regarding the current certification, or the lack thereof, of persons
3 offering to perform propane services in this State.

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

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

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

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

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

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

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37 6. This act shall take effect immediately.

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41
42 Requires propane gas supplier or marketer to distribute to
43 customers certain disclosures; establishes penalties for violations.