

SENATE, No. 1836

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED MAY 11, 2006

Sponsored by:

Senator LEONARD T. CONNORS, JR.

District 9 (Atlantic, Burlington and Ocean)

Senator NICHOLAS ASSELTA

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Establishes "Propane Consumer's Bill of Rights."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/19/2006)

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 Gas
8 Consumer Protection Act."

9

10 2. As used in this act:

11 "Act" means the "Propane Gas Consumer Protection Act."

12 "Department" means the Department of Community Affairs.

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

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

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

31

32 3. a. Within 180 days following the effective date of this act,
33 the department shall adopt rules and regulations pursuant to the
34 "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et
35 seq.) requiring that propane gas suppliers or marketers distribute to
36 any customer a "Propane Consumer's Bill of Rights" describing the
37 terms of its plans or contracts for propane service in a plain and
38 conspicuous manner.

39 b. The "Propane Consumer's Bill of Rights" required by
40 subsection a. of this section shall contain the following information:

41 (1) Charges and pricing policies for propane gas service that an
42 average person can understand and use to do comparative price
43 shopping and comparative service and supplier shopping;

44 (2) Notification of the right of consumers to obtain current
45 prices of propane over the telephone, by fax transmission or by any
46 other electronic or written means including any additional charges
47 that may be included in the plan or contract for any other items
48 related to the purchase of propane;

- 1 (3) Whether the price of propane gas service may vary
2 depending on non-scheduled or irregular deliveries, the criteria for
3 determining what constitutes a non-scheduled or irregular delivery,
4 and the cost of non-scheduled or irregular delivery if propane is
5 provided outside of regular delivery;
- 6 (4) The amount of any additional charges that may apply to
7 install a container or any other related equipment that may be
8 needed, the amount of any container rental fees that may apply,
9 notice of the consumer's right to use the consumer's own container
10 and regulator provided that the container and regulator meet safety
11 and licensing standards, and the cost charged by the supplier or
12 marketer to verify whether the consumer's container and regulator
13 meet current standards and regulations;
- 14 (5) Criteria used to determine the pricing structure of propane
15 gas service, including such criteria as annual usage, the area where
16 the consumer lives, the quantity of the delivery or other factors;
- 17 (6) A clear and concise written description of the services
18 provided under a consumer's plan or contract, including a price
19 conversion chart that will allow a consumer to compare price offers
20 from different propane gas suppliers or marketers on a uniform
21 basis;
- 22 (7) Notice of the right to be contacted at least seven business
23 days before the propane gas supplier or marketer may discontinue
24 further deliveries of service due to nonpayment;
- 25 (8) Notice of the consumer's right to receive written verification
26 that the propane gas supplier or marketer is licensed by the New
27 Jersey Department of Community Affairs;
- 28 (9) Notice of the consumer's right to change propane gas
29 suppliers or marketers, consistent with the terms of the consumer's
30 plan or contract, if the consumer is dissatisfied with price or service
31 or any other legal agreement in addition to price or service;
- 32 (10) Notice of whether a consumer is required to call for delivery
33 or if the deliveries are automatic, how often the automatic delivery
34 will be, whether the deliveries will be made on weekends and
35 holidays and if so, whether there are additional charges to make
36 deliveries on weekends and holidays;
- 37 (11) Notice of whether there is any minimal amount of propane
38 per delivery, how many days a consumer has to pay a bill after
39 delivery of propane gas is made and how many days before late fees
40 are charged to a consumer and what the marketer's policy is for
41 delivery of propane gas, if needed, during the winter when a
42 consumer may have outstanding debt;
- 43 (12) Notice of the provisions contained within subsection c. of
44 this section; and
- 45 (13) Any other information that the department considers
46 appropriate to ensure that consumers of propane gas are fully
47 informed of the terms of their plans or contracts.

1 c. To ensure the safety of this State's propane consumers, any
2 consumer who desires to cause propane services to be performed to
3 any propane appliance shall provide not less than three business
4 days' prior actual notice to the propane supplier or marketer that
5 regularly supplies such consumer with propane.

6 (1) In the event a consumer, who shall have failed to provide the
7 notice to the consumer's regular propane gas supplier or marketer
8 required by this subsection, shall suffer any injury, damage or loss
9 as a proximate consequence of any negligent installation, repair,
10 replacement, maintenance, modification, adjustment or other
11 service to any propane appliance or component thereof, no legal
12 action shall be commenced or maintained against such consumer's
13 regular propane gas supplier or marketer for such injury, damages
14 or loss.

15 (2) In the event a consumer or any person shall suffer any injury,
16 damage or loss as a proximate consequence of the consumer's or
17 any other person's using any propane equipment or appliance in a
18 manner or for any purpose other than that for which the equipment
19 or appliance was originally intended by the manufacturer thereof,
20 no legal action shall be commenced or maintained against such
21 propane gas supplier or marketer for such injury, damages or loss.

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

25 (4) No propane gas supplier or marketer shall be subject to any
26 award of punitive, special or exemplary damages except upon a
27 showing, by clear and convincing evidence, of gross negligence or
28 willful misconduct.

29 d. Propane gas suppliers or marketers shall provide the
30 information required by subsection b. of this section to a consumer
31 prior to entering into any contract with a consumer for propane gas
32 service, upon renewal of an existing contract and in response to a
33 request from a customer.

34 e. The department shall adopt rules and regulations directing
35 propane gas suppliers and marketers to publish the information
36 required by subsection b. of this section in a format that is clear,
37 uniform and designed to ensure that consumers may accurately
38 compare the true cost of services among different suppliers or
39 marketers.

40 f. The department shall also require propane gas suppliers and
41 marketers to meet the disclosure requirements in subsection b. of
42 this section in advertising to the extent allowed by the advertising
43 medium.

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45 4. Any propane gas supplier or marketer who neglects or
46 knowingly fails to comply with the requirements of this act or of the
47 regulations issued thereunder shall be subject to a penalty not to
48 exceed \$1,000 per violation, which penalty may be imposed by the

1 department and recovered in a civil action by a summary
2 proceeding pursuant to the "Penalty Enforcement Law of 1999,"
3 P.L.1999, c.274 (C.2A:58-10 et seq.). Payment of any such penalty
4 shall be remitted to the department.

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

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11 6. This act shall take effect immediately.

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STATEMENT

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16 This bill requires the Department of Community Affairs (the
17 "department") to adopt rules and regulations pursuant to the
18 "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et
19 seq.) requiring that propane gas suppliers and marketers distribute
20 to any consumer at the time a new contract is entered into, upon
21 renewal of an existing contract and in response to a request from a
22 consumer, a "Propane Consumer's Bill of Rights" describing the
23 terms of its plans or contracts for propane gas service in a plain and
24 conspicuous manner.

25 The bill requires the "Propane Consumer's Bill of Rights" to
26 contain the following information:

27 (1) Charges and pricing policies that an average person can
28 understand and use to do comparative price shopping and
29 comparative service and supplier shopping;

30 (2) Notice of the consumer's right to obtain current prices of
31 propane over the telephone, by fax transmission or by any other
32 electronic or written means including any additional charges that
33 may be included in the contract for any other items related to the
34 purchase of propane;

35 (3) Whether the price of propane may vary depending on non-
36 scheduled or irregular deliveries, the criteria for determining what
37 constitutes an irregular delivery, and the cost of non-scheduled or
38 irregular delivery if propane is provided outside of regular delivery;

39 (4) The amount of any additional charges that may apply to
40 install a container, or any other related equipment that may be
41 needed, the consumer's right to use the consumer's own containers
42 and regulators provided that the containers and regulators meet
43 safety and licensing standards, and the cost charged by the supplier
44 or marketer to verify whether the consumer's containers and
45 regulators meet current standards and regulations;

46 (5) Criteria used to determine the pricing structure of propane
47 gas service, including such criteria as annual usage, the area where
48 the consumer lives, the quantity of the delivery or other factors;

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

6 (7) Notice of the right to be contacted at least seven business
7 days before the propane gas supplier or marketer may discontinue
8 further deliveries of service due to nonpayment;

9 (8) Notice of the consumer's right to written verification that the
10 propane gas supplier or marketer is licensed by the New Jersey
11 Department of Community Affairs;

12 (9) Notice of the consumer's right to change propane gas
13 suppliers or marketers, consistent with the terms of the consumer's
14 plan or contract, if the consumer is dissatisfied with price or service
15 or any other legal agreement in addition to price or service;

16 (10) Notice of whether a consumer is required to call for delivery
17 or if the deliveries are automatic, how often the automatic delivery
18 will be, whether the deliveries will be made on weekends and
19 holidays and if so, whether there are additional charges to make
20 deliveries on weekends and holidays;

21 (11) Notice of whether there is any minimal amount of propane
22 per delivery, how many days a consumer has to pay a bill after
23 delivery of propane gas is made and how many days before late fees
24 are charged to a consumer and what the marketer's policy is for
25 delivery of propane gas, if needed, during the winter when a
26 consumer may have outstanding debt;

27 (12) Notice of the consumer's responsibility to give not less than
28 three business days' prior notice to the consumer's regular propane
29 supplier or marketer before attempting to perform any propane
30 services to any propane appliance, including notice that the
31 consumer's failure to give such notice prior to performing any
32 propane services shall preclude any legal action against the
33 consumer's regular propane gas supplier for injuries proximately
34 caused by negligent service to a propane appliance; and

35 (13) Any other information that the department considers
36 appropriate to ensure that consumers of propane gas are fully
37 informed of the terms of their plans or contracts.

38 The bill also directs the department to require suppliers and
39 marketers to meet the disclosure requirements in advertising to the
40 extent allowed by the advertising medium. The bill also provides
41 that any supplier or marketer who neglects or knowingly fails to
42 comply with the requirements of this bill shall be subject to a
43 penalty not to exceed \$1,000 per violation.