

By: Madden

H.B. No. 2399

Substitute the following for H.B. No. 2399:

By: West

C.S.H.B. No. 2399

A BILL TO BE ENTITLED

AN ACT

1
2 relating to liability for damages caused by a leak from or a
3 malfunction or the improper operation or modification of a
4 liquefied petroleum gas system or related equipment.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 113.301, Natural Resources Code, is
7 amended to read as follows:

8 Sec. 113.301. LIMITATION OF LIABILITY OF LICENSED INSTALLER
9 OR SERVICER. A person is not liable for damages caused [~~solely~~] by
10 a leak from, a malfunction of, or the improper operation of an LPG
11 system or any part of an LPG system that the person delivered for
12 installation in but did not install or service or that the person
13 installed or serviced in a residential, commercial, or public
14 building or in a motor vehicle if:

15 (1) the person was licensed by the commission to
16 perform the delivery, installation, or service;

17 (2) the delivery, installation, or service was
18 performed in compliance with the safety rules and standards adopted
19 by the commission;

20 (3) the person did not have [~~has no~~] control over the
21 operation or use of the LPG system in the premises of the building
22 in which it was installed or in the vehicle in which it was
23 installed;

24 (4) the person was not negligent; and

1 (5) the person did not supply a defective product that
2 [~~which~~] was a producing cause of harm.

3 SECTION 2. Subchapter K, Chapter 113, Natural Resources
4 Code, is amended by adding Sections 113.302-113.304 to read as
5 follows:

6 Sec. 113.302. LIMITATION OF LIABILITY IF SYSTEM MODIFIED.
7 A person who is not otherwise responsible under Section 113.301 is
8 not liable for damages caused, in whole or in part, by another
9 person's modification of an LPG system, piping or other equipment
10 that is part of a system, or an appliance that is connected or
11 attached to a system, if the person has no knowledge of the other
12 person's modification of the LPG system, piping or other equipment,
13 or appliance.

14 Sec. 113.303. INVOICE NOT CONCLUSIVE PROOF OF KNOWLEDGE OF
15 LEAKAGE. For purposes of determining liability for harm caused by
16 LPG leakage, the invoice for LPG delivered presented by a person who
17 provides LP-gas service for an LPG system or who delivers LPG to the
18 system may be considered by the fact finder for purposes of
19 determining whether the person knew that the system was leaking but
20 is not conclusive proof that the person knew of the leakage.

21 Sec. 113.304. CONSTRUCTION OF SUBCHAPTER. This subchapter
22 may not be construed to:

23 (1) exempt a person from complying with the
24 requirements of this chapter or commission rules; or

25 (2) limit the authority of the commission to
26 administer or ensure compliance with this chapter or commission
27 rules.

1 SECTION 3. This Act applies only to a cause of action that
2 accrues on or after the effective date of this Act. A cause of
3 action that accrued before the effective date of this Act is covered
4 by the law in effect when the cause of action accrued, and that law
5 is continued in effect for that purpose.

6 SECTION 4. Section 113.301, Natural Resources Code, as
7 amended by this Act, and Sections 113.302-113.304, Natural
8 Resources Code, as added by this Act, are an exercise of authority
9 under Section 66(c), Article III, Texas Constitution, and take
10 effect only if this Act receives a vote of three-fifths of all the
11 members elected to each house, as provided by Subsection (e) of that
12 section.

13 SECTION 5. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2005.