

By: Madden

H.B. No. 2399

A BILL TO BE ENTITLED

1 AN ACT

2 relating to liability for damages caused by a leak from or a
3 malfunction or the improper operation of a liquefied petroleum gas
4 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; and

24 (4) [~~the person was not negligent; and~~

1 ~~[(5)]~~ the person did not knowingly supply a defective
2 product that ~~[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. NOTICE AND ACKNOWLEDGMENT REQUIRED BEFORE
7 MODIFICATION OR REPAIR OF SYSTEM. (a) A person who uses an LPG
8 system must give written notice to and obtain the written
9 acknowledgement of the person who provides LP-gas service for the
10 system or delivers LPG to the system before:

11 (1) the system is modified or repaired; or

12 (2) an additional or replacement appliance is
13 connected or attached to the system.

14 (b) If a person does not give notice and obtain an
15 acknowledgment as required by Subsection (a), the person who
16 provides LP-gas service for the system or delivers LPG to the system
17 is not liable for damages caused, in whole or in part, by a leak
18 from:

19 (1) the modified or repaired system; or

20 (2) the additional or replacement appliance.

21 (c) The giving of notice or an acknowledgment under
22 Subsection (a) does not impose on the person who provides LP-gas
23 service for the system or delivers LPG to the system the duty to
24 inspect or test:

25 (1) the modified or repaired system; or

26 (2) the additional or replacement appliance.

27 Sec. 113.303. LIMITATION OF LIABILITY IF SYSTEM MISUSED. A

1 person is not liable for damages caused, in whole or in part, by
2 another person's use of an LPG system, piping or other equipment
3 that is part of a system, or an appliance that is connected or
4 attached to a system:

5 (1) for a purpose other than a purpose intended by the
6 manufacturer; or

7 (2) contrary to the provisions of any safety material,
8 manual, brochure, decal, or other safety guideline provided to the
9 user or owner of the LPG system, piping or other equipment, or
10 appliance.

11 Sec. 113.304. INVOICE AND AMOUNT OF LPG USED NOT EVIDENCE OR
12 NOTICE OF LEAKAGE. For purposes of determining liability for harm
13 caused by LPG leakage, the invoice for LPG delivered presented by a
14 person who provides LP-gas service for an LPG system or who delivers
15 LPG to the system and the person's knowledge of the amount of LPG
16 used by the person who uses the LPG system do not constitute:

17 (1) evidence that the person who provides LP-gas
18 service or delivers LPG knew or should have known of LPG leakage in
19 the residence or other premises or in the vehicle in which the
20 system is installed; or

21 (2) notice to the person who provides LP-gas service
22 or delivers LPG that such leakage may be occurring.

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

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

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