

By: Averitt

S.B. No. 1511

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, 113.303, and 113.304  
5 to read as 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 proximately caused by another person's  
9 modification of an LPG system, piping or other equipment that is  
10 part of a system, or an appliance that is connected or attached to a  
11 system, if the person has no knowledge of the other person's  
12 modification of the LPG system, piping or other equipment, or  
13 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 including,  
19 but not limited to, determining whether the person knew that the  
20 system was leaking but is not conclusive proof that the person knew  
21 of the leakage.

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

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

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

1 rules.

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

7 SECTION 4. Section 113.301, Natural Resources Code, as  
8 amended by this Act, and Sections 113.302, 113.303, and 113.304,  
9 Natural Resources Code, as added by this Act, are an exercise of  
10 authority under Subsection (c), Section 66, Article III, Texas  
11 Constitution, and take effect only if this Act receives a vote of  
12 three-fifths of all the members elected to each house, as provided  
13 by Subsection (e) of that section.

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