

BILL ANALYSIS

C.S.H.B. 1170
By: Flynn
Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Propane is a fuel that is widely used by residential, industrial, commercial and agricultural customers throughout Texas today. Although propane is generally safe, it can be hazardous if not handled appropriately.

Propane consumers are not required by law to use a licensed propane technician to modify, install or repair a liquefied petroleum gas (LPG) system or an affiliated appliance. As a result, serious incidents causing bodily injury, death and property damage have occurred when such modifications, installations or repairs are improperly made by an unlicensed person.

In cases where an unlicensed person has made a modification, repair or alteration and an accident that results in injury, loss or death occurs, sellers or installers of propane products and appliances are commonly named as a defendant in lawsuits filed to seek compensation for such damages and loss even though they did not perform or have anything to do with modifications to the LPG system or appliance which caused the injury, loss or damage. As such, propane suppliers and installers are forced to defend themselves at great cost and expense against liability claims for actions in which they had no involvement.

This bill requires companies to provide consumer safety notification and provides additional liability protections to licensed companies and registrants acting in accordance with certain provisions.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 1 of this bill.

ANALYSIS

This bill amends the Natural Resources Code by adding Subchapter M, entitled "Consumer Safety Notification." This bill requires that a person holding a license to install or repair an LPG system who sells, installs, or repairs an LPG system, piping or other equipment that is part of a system, or an appliance that is connected or attached to a system shall provide notice to the purchaser or owner of the system, piping or other equipment, or appliance.

This bill provides the specific warning language which shall be provided as part of the notice to the purchaser or owner of the LPG system, piping or other equipment, or appliance. This bill states that the Railroad Commission of Texas (the commission) shall adopt rules relating to the notice required.

This bill states that a person is not liable for damages caused solely by a malfunction or the installation, modification, or improper operation of an LPG system that the person delivered for installation, installed, or serviced in a residential commercial, or public building or in a motor vehicle if the person was licensed by the commission to perform the installation or service or was a registrant; the delivery, installation, or service was performed in compliance with the safety rules and standards adopted by the commission; the person has no control over the operation or use of the LPG system; the person was not negligent; and the person did not supply a defective product which was a producing cause of harm.

This bill applies only to a cause of action that accrues on or after the effective date of this Act. The portion of this bill dealing with Limitation of Liability of Licensed Installer or Servicer takes effect only if this Act receives a vote of three-fifths of all the members elected to each house.

EFFECTIVE DATE

With the exception of Section 1 of this Act, the effective date is upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

Section 1 of this Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds the words "installation", "repair", "registered", and "modify" to the language of the warning notice. The substitute removes the words "If you want to have the system modified" from the language of the warning notice. In the warning notice language, the substitute states that A person licensed to install or repair an LPG system "may not be" liable for damages, whereas the original stated A person licensed to install or repair an LPG system "is not" liable for damages. The substitute also adds to the warning notice language the words "except as otherwise provided by applicable law."

The substitute adds that the commission shall adopt rules relating to the notice required.

Under the section entitled "Limitation of Liability of Licensed Installer or Servicer," the substitute adds the word "installation" and the phrase "or was a registrant" and removes the words "but did not install or service or that the person."