

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-386
HOUSE BILL 1084

AN ACT TO AMEND THE LIQUEFIED PETROLEUM GAS LAW TO CREATE CLASSES OF DEALERS FOR THE PURPOSE OF INSURANCE REQUIREMENTS, TO CLARIFY THE AUTHORITY TO CONDUCT INSPECTIONS, TO INCREASE CIVIL PENALTIES, AND TO MAKE TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 119-56 reads as rewritten:

"§ 119-56. Registration of dealers; liability insurance or substitute required.

A person shall not hold himself out or commence operation as a dealer without first having registered as ~~herein provided~~ provided in this section. A dealer shall ~~annually on or before January 1 of each year~~ register with the Commissioner on a form to be furnished by the Commissioner. Such form shall give the name and address of the dealer, the place or places of and type or types of business ~~to~~ of such dealer, and such other pertinent information as the Commissioner may deem necessary. Verification of the insurance coverage required by this section or of proof of alternative means of financial responsibility permitted by this section shall be submitted to the Commissioner as a condition of the issuance of any registration or renewal of such registration.

There shall be two classes of dealers:

- (1) A Class A dealer is one who engages in the transportation of liquefied petroleum gas.
- (2) A Class B dealer is one who does not engage in the transportation of liquefied petroleum gas.

~~A dealer shall obtain and maintain comprehensive general liability insurance including product liability of one hundred thousand dollars (\$100,000) combined single limits and, when applicable, comprehensive automobile liability insurance of one hundred thousand dollars (\$100,000) combined single limits.~~ A Class A dealer shall obtain and maintain general liability insurance, including product liability, of one million dollars (\$1,000,000) and motor vehicle liability insurance of one million dollars (\$1,000,000) combined single limit. A Class B dealer shall obtain and maintain general liability insurance, including product liability, of one hundred thousand dollars (\$100,000). Verification of said insurance coverage shall be made in a manner satisfactory to the Commissioner. The Commissioner may from time to time request in writing that a dealer provide within 10 days of such request verification of said insurance coverage or proof of alternative means of financial responsibility. In lieu of insurance, the dealer may file and maintain a bond, certificate of deposit or irrevocable letter of credit in a form satisfactory to the Commissioner which provides protection for the public in the same amounts and to the same extent as said insurance.

The provisions of this section shall not apply to a dealer who retails liquefied petroleum gas in containers of less than 50 pounds water capacity and which retailing does not involve the filling or transportation of such containers."

SECTION 2. G.S. 119-57 reads as rewritten:

"§ 119-57. Administration of Article; rules and regulations given force and effect of law.



It shall be the duty of the Commissioner to administer all the provisions of this Article and all the rules and regulations made and promulgated under this Article; to conduct inspections of liquefied petroleum gas containers and installations; to investigate for violations of this Article and the rules and regulations adopted pursuant to the provisions thereof, and to prosecute violations of this Article or of such rules and regulations adopted pursuant to the provisions thereof."

SECTION 3. G.S. 119-59 reads as rewritten:

"§ 119-59. **Sanctions for violations.**

(a) Criminal. – A dealer who violates a provision of this Article or a rule adopted under it is guilty of a Class 1 misdemeanor.

(b) Injunction. – The Commissioner or an agent of the Commissioner may apply to any superior court judge and the court may temporarily restrain or preliminarily or permanently enjoin any violation of this Article or a rule adopted under it.

(c) Civil Penalty. – The Commissioner may assess a civil penalty against any person who violates a provision of this Article or a rule adopted under it. The penalty may not exceed ~~one hundred dollars (\$100.00)~~ three hundred dollars (\$300.00) for the first violation, ~~three hundred dollars (\$300.00)~~ five hundred dollars (\$500.00) for a second violation, and ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000) for a third or subsequent violation. In determining the amount of a penalty, the Commissioner shall consider the degree and extent of harm or potential harm that has resulted or could have resulted from the violation. ~~The Commissioner may not assess a civil penalty against a person until the Commissioner has notified the person of the alleged violation and has given the person at least 45 days to correct or cease the alleged violation. A notice may be served by any means authorized by G.S. 1A-1, Rule 4.~~ The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Registration. – The Commissioner may deny, suspend, or revoke the registration of a dealer who violates a provision of this Article or a rule adopted under it."

SECTION 4. G.S. 119-61 reads as rewritten:

"§ 119-61. **Replacement data plates for ~~liquefied~~ liquefied petroleum gas tanks.**

A ~~liquefied~~ liquefied petroleum gas tank of 120 gallons or more that is subject to the American Society of Mechanical Engineers (ASME) Code must have a data plate indicating that it was built in accordance with that Code. The Commissioner may issue a data plate to replace a rusting or partially detached data plate on a ~~liquefied~~ liquefied petroleum gas tank. The Commissioner shall charge a person to whom a replacement data plate is issued a fee of twenty dollars (\$20.00) for the plate. Fees collected under this section shall be credited to the Department of Agriculture and Consumer Services and applied to the cost of issuing replacement data plates."

SECTION 5. This act becomes effective October 1, 2009.

In the General Assembly read three times and ratified this the 21st day of July, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 12:18 p.m. this 31st day of July, 2009