

Article 5.

Liquefied Petroleum Gases.

§ 119-54. Purpose; definitions; scope of Article.

(a) It is the purpose of this Article to provide for the adoption and promulgation of a code of safety, and such rules and regulations setting forth minimum general standards of safety for the design, construction, location, installation, and operation of the equipment used in handling, storing, measuring, transporting, distributing, and utilizing liquefied petroleum gases and to provide for the administration and enforcement of the code and such rules and regulations thereby adopted. Words used in this Article shall be defined as follows:

- (1) "Board" means the North Carolina Board of Agriculture.
- (2) "Commissioner" means the Commissioner of Agriculture or his designated agent.
- (3) "Dealer" means any person, firm, or corporation who is engaged in or desires to engage in:
 - a. The business of selling or otherwise dealing in liquefied petroleum gases which require handling, storing, measuring, transporting, or distributing liquefied petroleum gas; or
 - b. The business of installing, servicing, repairing, adjusting, connecting, or disconnecting containers, equipment, or appliances which use liquefied gas. A person who engages in any of the aforementioned activities only in connection with his or his employer's use of liquefied petroleum gas and not as a business shall not be deemed to be a "dealer" for the purposes of this Article.
- (4) "Liquefied petroleum gas" means any material which is composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, butanes (normal butanes or isobutane), butylenes.

(b) This Article does not apply to the design, construction, location, installation, or operation of equipment or facilities covered by the Building Code pursuant to Article 9 of Chapter 143 of the General Statutes. (1955, c. 487; 1959, c. 796, s. 1; 1961, c. 1072; 1981, c. 486, s. 1; 1989, c. 25, s. 1.)

§ 119-55. Power of Board of Agriculture to set minimum standards; regulation by political subdivisions.

The Board shall have the power and authority to set minimum standards and promulgate rules and regulations for the design, construction, location, installation, and operation of equipment and facilities used in handling, storing, measuring, transporting, distributing, and utilizing liquefied petroleum gas.

Any municipality or political subdivision may adopt and enforce a safety code dealing with the handling of liquefied petroleum gas which conforms with the regulations adopted by the Board, and the inspection service rendered by such municipality or political subdivision shall conform to the requirements of the inspection service rendered by the Board in the enforcement of this Article. (1955, c. 487; 1959, c. 796, s. 2; 1961, c. 1072; 1963, c. 671; 1967, c. 1231; 1969, c. 1133; 1975, c. 610, s. 1; 1977, c. 410; 1981, c. 486, s. 1.)

§ 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 provided in this section. A dealer shall 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 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 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. (1955, c. 487; 1961, c. 1072; 1981, c. 486, s. 1; 1987, c. 453; 2009-386, s. 1.)

§ 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. (1955, c. 487; 1961, c. 1072; 1981, c. 486, s. 1; 2009-386, s. 2.)

§ 119-58. Unlawful acts.

- (a) It shall be an unlawful act for any person to:
 - (1) Sell any liquefied petroleum gas burning appliance designed or built for domestic use that has not been approved by the American Gas Association, Inc., the Underwriters Laboratory, Inc., or other laboratory approved by the Building Code Council.
 - (2) Repealed by Session Laws 1999-344, s. 1, effective July 22, 1999, and applicable to liquefied petroleum gas burning appliances installed on and after that date.

- (3) Repealed by Session Laws 1999-344, s. 1, effective July 22, 1999, and applicable to liquefied petroleum gas burning appliances installed on and after that date.
- (4) Fill a consumer tank or container in excess of 85 percent (85%) of its water capacity, or to fill a tank or container on the premises of a consumer that is not equipped with a fill tube or gauge; provided, the tank or container may be filled by weight if the tank or container is weighed before and after filling.
- (5) Disconnect an appliance from a gas supply line without capping or plugging the line before leaving the premises.
- (6) Turn on the gas after reestablishing an interrupted service without first having checked and closed all gas outlets.
- (7) Violate any provisions of this Article or any rules adopted pursuant to this Article.

(b) Every supply tank or container with its regulating equipment connected in a service system, shall be identified while in service by the supplier with an attached tag, label, or other marking that includes the name of the person supplying liquefied petroleum gas to the system, and it shall be unlawful for any person, other than the supplier or the owner of the system, to disconnect, interrupt or fill the system with liquefied petroleum gas without the consent of the supplier. If another registered supplier is requested by the consumer to connect service and is given permission by the consumer to do so, the new supplier shall notify the former supplier before disconnecting the former service and connecting the new service and shall cap or plug all disconnected equipment outlets and leave the equipment in a condition consistent with this Article and the rules adopted pursuant to this Article. (1955, c. 487; 1959, c. 796, s. 3; 1961, c. 1072; 1981, c. 486, s. 1; 1987, c. 282, s. 17; 1999-344, s. 1.)

§ 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 three hundred dollars (\$300.00) for the first violation, five hundred dollars (\$500.00) for a second violation, and 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 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. (1955, c. 487; 1961, c. 1072; 1981, c. 486, s. 1; 1993, c. 356, s. 2; c. 539, s. 911; 1994, Ex. Sess., c. 24, s. 14(c); 1998-215, s. 25; 2009-386, s. 3.)

§ 119-60. Liquefied petroleum gas accidents; liability limitations.

Any person who provides assistance upon request of any police agency, fire department, rescue or emergency squad, or any governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission or storage of liquefied petroleum gas, when the reasonably apparent circumstances require prompt decisions and actions, shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance unless such acts or omissions amount to willful or wanton negligence or intentional wrongdoing. Nothing in this section shall be deemed or construed to relieve any person from liability for civil damages (a) where the accident or emergency referred to above involved his own facilities or equipment or (b) resulting from any act of commission or omission on his part in the course of providing care or assistance in the normal and ordinary course of conducting his own business or profession, nor shall this section be construed to relieve from liability for civil damages any other tortfeasor not referred to herein. When the assistance takes the form of rendering first aid or emergency health care treatment, questions of liability shall be governed by G.S. 90-21.14. (1981, c. 660.)

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

A 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 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. (1993, c. 356, s. 1; 1997-261, s. 109; 2009-386, s. 4.)

§ 119-62. Liquefied petroleum gas dealers and their employees, agents, subcontractors; liability limitations.

(a) A dealer shall not be liable for any civil damages resulting from any act or failure to act if the alleged injury, damage, or loss claimed in the action was caused by any one or more of the following:

- (1) The installation, alteration, modification, or repair of liquefied petroleum gas equipment or a liquefied petroleum gas appliance by a person, other than the dealer, and the installation, alteration, modification, or repair was done without the knowledge and consent of the dealer.
- (2) The use of liquefied petroleum gas equipment or a liquefied petroleum gas appliance by a person, other than the dealer, in a manner or for a purpose other than that for which the equipment or appliance was intended, and the use of the equipment or appliance in a manner or for a purpose other than that for which the equipment or appliance was intended took place without the knowledge and consent of the dealer.
- (3) The installation of liquefied petroleum gas equipment or a liquefied petroleum gas appliance by a person, other than the dealer, in a manner not in accordance with the instructions of the manufacturer of the equipment or appliance or in a manner not in accordance with rules adopted under this Article, and the installation of the equipment or appliance in a manner not in accordance with the instructions of the manufacturer of the equipment or appliance or in a

manner not in accordance with rules adopted under this Article took place without the knowledge and consent of the dealer.

(b) Nothing in this section alters a dealer's duty to exercise reasonable care.

(c) As used in this section, "dealer" means dealer as defined in G.S. 119-54 and any employee, agent, and subcontractor of the dealer. (2007-302, s. 1.)

§ 119-63. Reserved for future codification purposes.