~~Indicates Matter Stricken~~

Indicates New Matter

POLLED OUT OF COMMITTEE

MAJORITY FAVORABLE WITH AMENDMENT

April 2, 2009

**S. 196**

Introduced by Senator McConnell

S. Printed 4/2/09--S.

Read the first time January 13, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 196) to amend Chapter 3, Title 15, Code of Laws of South Carolina, 1976, relating to civil actions, so as to limit liability for certain liquefied petroleum gas providers, etc., respectfully

**REPORT:**

Has polled the Bill out with amendment, to wit:

Amend the bill, as and if amended, by striking the bill in its entirety after the enacting words and inserting:

/ SECTION 1. Chapter 3 of Title 15 of the 1976 Code is amended by adding:

“Section 15‑3‑690. (A) As used in this subsection, the following definitions apply:

(1) 'System' or ‘Systems’ means assembly of equipment consisting of the container and any device that is connected to the container for the utilization of liquefied petroleum gas.

(2) 'Dealer' means a person engaging in the installation of liquefied petroleum gas systems or in the manufacture, distribution, sale, storing, or transporting by tank truck, tank trailer, or container of liquefied petroleum gases or engaging in installing, servicing, repairing, adjusting, disconnecting, or connecting appliances to liquefied petroleum gas systems and containers.

(3) 'Liquefied petroleum gas' means material composed predominately of hydrocarbons or mixtures of hydrocarbons, including propane, propylene, butanes (normal butane or isobutane), and butylenes.

(B) A liquefied petroleum gas dealer shall be immune from civil liability if the proximate cause of the injury or damages was:

(1) an alteration, modification, or repair of the liquefied petroleum gas system or gas burning appliance that could not have been discovered by the liquefied petroleum gas dealer in the exercise of reasonable care; or

(2) the use of the liquefied petroleum gas system or gas burning appliance in a manner or for a purpose other than that for which the liquid petroleum gas system or gas burning appliance was intended to be used or for which could reasonably have been foreseen, provided that the liquefied petroleum gas dealer or the manufacturer of the liquefied petroleum gas system or gas burning appliance took reasonable steps to warn the ultimate consumer of the hazards associated with foreseeable misuses of the liquefied petroleum gas system or gas burning appliance.

(C) Nothing in this subsection shall be construed as affecting, modifying, or eliminating the liability of a manufacturer of the liquefied petroleum gas system or gas burning appliance, or its employees or agents from any other legal claim, including but not limited to product liability claims.”

(D) Nothing in this subsection shall apply to a cylinder exchange company as defined pursuant to Section 40-82-20(3) or a reseller as defined pursuant to Section 40-82-20(7).

SECTION 2. Section 40-82-270 of the 1976 Code is amended to read:

Section 40-82-270. (1) An installer or service worker shall notify the supplier of propane before beginning any work on the system supplied by a liquefied petroleum gas supplier. If more than one liquefied petroleum gas supplier has supplied gas to the container of the system, the last supplier of liquefied petroleum gas must be notified before any work is performed on the system.

(2) Any consumer, owner, end user, or person who alters or modifies in any way his liquefied petroleum gas equipment, gas burning appliance, or system installed by a licensed dealer shall, for informational purposes, notify the licensed dealer who next fills or otherwise services his liquefied petroleum gas system that such work has been performed. The licensed dealer shall notify their customers in writing at least once per year of the customer’s statutory obligation of notification in regard to modifications to their propane appliances or systems. This notice should be provided in a separate and distinct disclosure and not a part of other safety literature given to customers.” /

SECTION 3. This act takes effect on July 1, 2009, or if ratified after that date, upon approval by the Governor, and applies to any cause of action arising on or after the effective date.

Renumber sections to conform.

Amend title to conform.

**A** **BILL**

TO AMEND CHAPTER 3, TITLE 15, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CIVIL ACTIONS, SO AS TO LIMIT LIABILITY FOR CERTAIN LIQUEFIED PETROLEUM GAS PROVIDERS FOR INJURIES OR DAMAGES PROXIMATELY CAUSED BY ALTERATIONS, MODIFICATIONS, OR REPAIRS OF LIQUEFIED PETROLEUM GAS EQUIPMENT THE LIQUEFIED PETROLEUM GAS PROVIDER COULD NOT HAVE DISCOVERED, OR WHEN LIQUEFIED PETROLEUM GAS EQUIPMENT IS USED IN A MANNER OR FOR A PURPOSE OTHER THAN THAT WHICH THE EQUIPMENT WAS INTENDED TO BE USED, OR COULD REASONABLY HAVE BEEN FORESEEN TO BE USED FOR, AND TO PROVIDE AN EFFECTIVE DATE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 3 of Title 15 of the 1976 Code is amended by adding:

“Section 15‑3‑690. (A) As used in this subsection, the following definitions apply:

(1) ‘Liquefied petroleum gas equipment’ means a liquefied petroleum gas appliance or liquefied petroleum gas equipment.

(2) ‘Liquefied petroleum gas provider’ means any person or entity engaged in the business of supplying, handling, transporting, or selling at retail liquefied petroleum gas in this state.

(B) A liquefied petroleum gas provider shall be immune from civil liability if the proximate cause of the injury or damages was:

(1) an alteration, modification, or repair of liquefied petroleum gas equipment that could not have been discovered by the liquefied petroleum gas provider in the exercise of reasonable care; or

(2) the use of liquefied petroleum gas equipment in a manner or for a purpose other than that for which the liquid petroleum gas equipment was intended to be used or for which could reasonably have been foreseen, provided that the liquefied petroleum gas provider or the manufacturer of the liquefied petroleum gas equipment took reasonable steps to warn the ultimate consumer of the hazards associated with foreseeable misuses of the liquefied petroleum gas equipment.

(C) Nothing in this subsection shall be construed as affecting, modifying, or eliminating the liability of a manufacturer of liquefied petroleum gas equipment or its employees or agents from any other legal claim, including but not limited to product liability claims.”

SECTION 2. This act takes effect on July 1, 2009, or if ratified after that date, upon approval by the Governor, and applies to any cause of action arising on or after the effective date.

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