

STATE OF NEW YORK

1434--A

2019-2020 Regular Sessions

IN ASSEMBLY

January 15, 2019

Introduced by M. of A. SANTABARBARA, STECK, D'URSO, RIVERA, BRONSON, WALSH -- read once and referred to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to authorizing the delivery of liquefied petroleum gas in times of emergency

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 192-e of the agriculture and markets law is amended by adding two new subdivisions 6-a and 6-b to read as follows:

6-a. a. Definitions. For the purposes of this subdivision:

(i) "liquefied petroleum gas tank" shall mean a cylinder, container or receptacle, fixed in place, that is intended to be used to store liquefied petroleum gas for the purpose of heating, or generating electric power, for a residential customer;

(ii) "qualifying emergency" shall mean:

(A) a federal, state or local state of emergency has been declared, or federal or state authorities have granted a waiver from hours-of-operations limitations affecting liquefied petroleum gas deliveries; or

(B) severe weather or any other similar circumstance exist that may result in an individual being placed in imminent danger of death or injury, or may result in a building structure and/or its fixtures being at risk of significant damage due to lack of residential heat caused by the lack of sufficient liquified petroleum gas to produce residential heat;

(iii) "regular supplier" shall mean a person, firm, limited liability company or corporation that owns a liquefied petroleum gas tank and that, pursuant to a current contract, has agreed to supply liquefied petroleum gas to such tank for use by a residential customer or the customer's agent or agents; and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 (iv) "temporary emergency supplier" shall mean a person, firm, limited
2 liability company or corporation that fills, refills or otherwise deliv-
3 ers liquefied petroleum gas into a liquefied petroleum gas tank it does
4 not own, where such tank is subject to an existing contract between a
5 regular supplier and their customer.

6 b. Notwithstanding any other law, rule or regulation to the contrary,
7 when, in the event of a qualifying emergency, a residential customer who
8 has a contract with a regular supplier to fill a liquefied petroleum gas
9 tank reasonably believes the amount of liquefied petroleum gas in the
10 tank will be insufficient to meet the customer's heating needs, the
11 customer shall make a good faith effort to procure delivery of liquefied
12 petroleum gas from such regular supplier. If the regular supplier is
13 unable to make a scheduled delivery or fulfill the customer's good faith
14 request for delivery within twenty-four hours, the regular supplier
15 shall engage a temporary emergency supplier to make such delivery and
16 authorize the temporary emergency supplier to do so. If no delivery has
17 been made within twenty-four hours after such customer's initial request
18 then the regular supplier is deemed to have given any temporary supplier
19 authorization to fill, refill, or otherwise deliver liquefied petroleum
20 gas into the regular supplier's tank when the qualified emergency is in
21 effect and the customer may arrange to have a temporary emergency
22 supplier fill, refill or otherwise deliver liquefied petroleum gas into
23 such liquefied petroleum gas tank, provided that such tank, and the
24 devices and pipelines operated in connection with such tank, have been
25 inspected and certified as required by law and all applicable regu-
26 lations.

27 c. When a temporary emergency supplier delivers liquefied petroleum
28 gas to a residential customer pursuant to this subdivision, neither such
29 temporary emergency supplier nor such customer's regular supplier may
30 charge any penalty or fee in addition to any filling, refilling or
31 delivery fees that are usually charged to other customers in the course
32 of business under circumstances when paragraph b of this subdivision is
33 not applicable.

34 d. Any contract executed subsequent to the effective date of this
35 subdivision for the supply of liquefied petroleum gas to a residential
36 customer shall include provisions relating to delivery and fees pursuant
37 to paragraphs b and c of this subdivision if applicable.

38 e. Nothing in this subdivision shall be deemed to restrict a liquefied
39 petroleum gas customer who owns a liquefied petroleum gas tank from
40 procuring such gas from any supplier.

41 6-b. The commissioner, in cooperation with the department of law,
42 shall develop a "propane consumer bill of rights" consistent with this
43 section to address the rights of consumers who enter into contracts for
44 the provision and delivery of liquefied petroleum gas, including the
45 right of customers to purchase liquefied petroleum gas from temporary
46 suppliers pursuant to subdivision six-a of this section. Such bill of
47 rights shall be provided by every regular supplier of liquefied petrole-
48 um gas to the consumer when a contract is executed, and then annually
49 while a contract remains in effect and the department shall post such
50 bill of rights on its website.

51 § 2. The commissioner of agriculture and markets shall develop regu-
52 lations consistent with subdivisions six-a and six-b of section 192-e of
53 the agriculture and markets law for the implementation thereof includ-
54 ing, but not limited to, the responsibilities of temporary emergency
55 suppliers and regular suppliers for the safe inspection, testing and

1 filling of liquefied petroleum gas tanks, and any devices and pipelines
2 operated in connection with such tanks, pursuant to such subdivisions.
3 § 3. This act shall take effect on the one hundred twentieth day after
4 it shall have become a law; provided, however that the provisions of
5 this act shall take effect immediately upon the occurrence of a qualify-
6 ing emergency for any customer residing within the geographic limits of
7 such qualifying emergency as declared by federal, state or local author-
8 ities or as otherwise determined by federal or state authorities or the
9 commissioner; and provided that the commissioner of agriculture and
10 markets shall notify the legislative bill drafting commission upon the
11 occurrence of a qualifying emergency, if such qualifying emergency
12 occurs within the first 120 days after this act shall have become a law,
13 in order that the commission may maintain an accurate and timely effec-
14 tive data base of the official text of the laws of the state of New York
15 in furtherance of effectuating the provisions of section 44 of the
16 legislative law and section 70-b of the public officers law. Effective
17 immediately the addition, amendment and/or repeal of any rule or regu-
18 lation necessary for the implementation of this act on its effective
19 date are authorized to be made and completed on or before such date.