

STATE OF NEW YORK

1434--B

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 -- reported and referred to the Committee on Codes -- 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:

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

3 6-a. a. Definitions. For the purposes of this subdivision:

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

8 (ii) "qualifying emergency" shall mean:

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

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

18 (iii) "regular supplier" shall mean a person, firm, limited liability
19 company or corporation that owns a liquefied petroleum gas tank and
20 that, pursuant to a current contract, has agreed to supply liquefied

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

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1 petroleum gas to such tank for use by a residential customer or the
2 customer's agent or agents; and

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

8 b. Notwithstanding any other law, rule or regulation to the contrary,
9 when a qualifying emergency is in effect, a residential customer who has
10 a contract with a regular supplier to fill a liquefied petroleum gas
11 tank reasonably believes the amount of liquefied petroleum gas in their
12 tank will be insufficient to meet the customer's heating needs, the
13 customer shall make a good faith effort to procure delivery of liquefied
14 petroleum gas from such regular supplier. If the regular supplier is
15 unable to make a scheduled delivery or fulfill the customer's good faith
16 request, directly or through another supplier, for delivery within twen-
17 ty-four hours, the customer may arrange to have a temporary emergency
18 supplier fill, refill or otherwise deliver liquefied petroleum gas into
19 such liquefied petroleum gas tank, provided that the temporary emergency
20 supplier ensures that such tank, and the devices and pipelines operated
21 in connection with such tank, have been inspected and certified as
22 required by law and all applicable regulations.

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

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

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

37 6-b. The commissioner, in cooperation with the department of law,
38 shall develop a "propane consumer bill of rights" consistent with this
39 section to address the rights of consumers who enter into contracts for
40 the provision and delivery of liquefied petroleum gas, including the
41 right of customers to purchase liquefied petroleum gas from temporary
42 suppliers pursuant to subdivision six-a of this section. Such bill of
43 rights shall be provided by every regular supplier of liquefied petrole-
44 um gas to the consumer when a contract is executed, and then annually
45 while a contract remains in effect and the department shall post such
46 bill of rights on its website.

47 § 2. The commissioner of agriculture and markets shall develop regu-
48 lations consistent with subdivisions six-a and six-b of section 192-e of
49 the agriculture and markets law for the implementation thereof includ-
50 ing, but not limited to, the responsibilities of temporary emergency
51 suppliers and regular suppliers for the safe inspection, testing and
52 filling of liquefied petroleum gas tanks, and any devices and pipelines
53 operated in connection with such tanks, pursuant to such subdivisions
54 and the need for appropriate liability insurance coverage for such
55 suppliers.

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