

# STATE OF NEW YORK

6111--A

Cal. No. 914

2019-2020 Regular Sessions

## IN SENATE

May 16, 2019

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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-opera-  
11 tions 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  
21 petroleum gas to such tank for use by a residential customer or the  
22 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 a qualifying emergency is in effect, a residential customer who has  
8 a contract with a regular supplier to fill a liquefied petroleum gas  
9 tank reasonably believes the amount of liquefied petroleum gas in their  
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, directly or through another supplier, for delivery within twen-  
15 ty-four hours, the customer may arrange to have a temporary emergency  
16 supplier fill, refill or otherwise deliver liquefied petroleum gas into  
17 such liquefied petroleum gas tank, provided that the temporary emergency  
18 supplier ensures that such tank, and the devices and pipelines operated  
19 in connection with such tank, have been inspected and certified as  
20 required by law and all applicable regulations.

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

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

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

35 6-b. The commissioner, in cooperation with the department of law,  
36 shall develop a "propane consumer bill of rights" consistent with this  
37 section to address the rights of consumers who enter into contracts for  
38 the provision and delivery of liquefied petroleum gas, including the  
39 right of customers to purchase liquefied petroleum gas from temporary  
40 suppliers pursuant to subdivision six-a of this section. Such bill of  
41 rights shall be provided by every regular supplier of liquefied petrole-  
42 um gas to the consumer when a contract is executed, and then annually  
43 while a contract remains in effect and the department shall post such  
44 bill of rights on its website.

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

54 § 3. This act shall take effect on the one hundred twentieth day after  
55 it shall have become a law; provided, however that the provisions of  
56 this act shall take effect immediately upon the occurrence of a qualify-

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