

CHAPTER 150

AN ACT concerning propane gas service contracts and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.52:27D-509 Short title.

1. This act shall be known and may be cited as the "Propane Gas Customer Protection Act."

C.52:27D-510 Definitions relative to propane gas service contracts.

2. As used in this act:

"Act" means the "Propane Gas Customer Protection Act."

"Department" means the Department of Community Affairs.

"Propane" means any of the forms of liquefied petroleum products, including propane, propylene, butane, isobutane, and butylene, or any mixture of these hydrocarbons, that is utilized for residential and commercial heating purposes and for various appliances and fixtures, including, but not limited to, clothes washers and dryers, grills, lighting and electricity-producing fuel cells.

"Propane gas supplier or marketer" or "supplier or marketer" means a duly licensed business that takes title to propane gas and then assumes the contractual and legal obligation to provide propane gas to an end-user customer or customers.

"Propane services" or "services" means the performing of safety and leak testing of, and the performing of installation, maintenance, repair, removal, adjustment and other services to, propane appliances including, without limitation, ranges, water heaters, heaters, furnaces, containers and other propane fueled systems, for residential and commercial applications.

C.52:27D-511 Rules, regulations; information provided to customers, required contents.

3. a. Within 180 days following the effective date of this act, the department shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.) requiring that propane gas suppliers or marketers distribute to each customer a description of the terms of their plans or contracts for the sale of propane and propane services in a plain and conspicuous manner and providing for certification of persons as qualified to engage in the sale of propane and to perform propane services pursuant to subsection c. of this section.

b. The description required by subsection a. of this section shall contain the following information:

(1) The supplier's or marketer's charges and pricing policies for propane and propane services that are disclosed in a format including a price conversion chart that will assist a customer to compare price offers from different propane suppliers or marketers on a uniform basis which an average person can understand and use to do comparative shopping for propane, propane services and for a supplier or marketer;

(2) Notification of the right of customers to obtain the supplier's or marketer's current prices of propane and propane services over the telephone, by facsimile transmission or by any other electronic or written means including any additional charges that may be included in the plan or contract for any other items related to the purchase of propane and propane services;

(3) Whether the supplier's or marketer's price of propane and propane services may vary depending on non-scheduled or irregular deliveries of propane, or the provision of propane

services on weekends, nights, holidays or at other times outside of the normal weekday hours, the criteria for determining what constitutes a non-scheduled or irregular delivery, or outside of normal weekday hours, and the cost of non-scheduled or irregular delivery if propane is provided outside of regular delivery, or if propane services are provided outside of normal weekday hours;

(4) The amount of any additional charges that may be charged by that supplier or marketer to install a container or any other related equipment that may be needed to store and utilize propane, the amount of any container rental fees that may be charged by that supplier or marketer, notice of the customer's right to use the customer's own container and regulator provided that the container and regulator have been verified by the supplier or marketer to meet current safety and licensing standards, and the cost charged by the supplier or marketer to verify whether the customer's container and regulator meet current standards and regulations;

(5) Criteria used to determine that supplier's or marketer's pricing structure for propane or propane services, including such criteria as annual usage, the area where the customer lives, the quantity or time of the delivery or other factors;

(6) Notice of the right to be contacted by that supplier or marketer at least seven business days before the propane supplier or marketer may discontinue further propane deliveries due to nonpayment;

(7) Notice of the customer's right to receive written verification that the propane supplier or marketer is licensed by the New Jersey Department of Community Affairs;

(8) Notice of the customer's right to change propane suppliers or marketers, consistent with the terms of the customer's plan or contract, if the customer is dissatisfied with price or services or for any other reason;

(9) Notice of whether a customer is required to call for delivery of propane or if the deliveries are automatic, how often the automatic delivery will be made, whether the deliveries will be made on weekends and holidays and, if so, whether there are additional charges to make deliveries on weekends and holidays, and if the customer is to receive automatic delivery, whether the customer should inform the supplier or marketer of any changes in the customer's circumstances that might change the rate at which the customer uses propane;

(10) Notice of whether there is any minimal amount of propane per delivery, how many days a customer has to pay a bill after the delivery of propane is made or propane services are provided, as the case may be, and how many days before late fees are charged to a customer and what the supplier's or marketer's policy is for the delivery of propane or the provision of propane services, if needed, during the winter when a customer may have outstanding debt;

(11) Notice of the provisions contained within subsection c. of this section;

(12) If desired by the supplier or marketer, a statement that nothing in this description is a waiver or amendment of the contract or plan between the supplier or marketer and the customer, but is merely a summary of the department's regulations for the convenience of the customer; and

(13) Any other information that the department considers appropriate to ensure that customers of propane suppliers or marketers are fully informed of the terms of their plans or contracts.

c. To ensure the safety of this State's propane customers, any customer who desires to cause propane services to be performed should ensure that any such propane services are

performed only by persons certified by the department pursuant to the regulations to be adopted pursuant to paragraph (1) of this subsection.

(1) The department, in consultation with and upon the advice and recommendation of the Liquefied Petroleum Gas Education and Safety Board, shall promulgate rules and regulations for the certification and competency testing of all persons engaged in the sale of propane and performing propane services, and for the dissemination to the public of information regarding the current certification, or the lack thereof, of persons offering to perform propane services in this State.

(2) All persons who are certified by the department shall be legally responsible for the propane services they perform.

d. Propane gas suppliers or marketers shall provide the information required by subsection b. of this section to a customer prior to entering into any contract with a customer for the delivery of propane or propane services, upon renewal of an existing contract and in response to a request from a customer.

e. The department shall adopt rules and regulations directing propane suppliers and marketers to publish the information required by subsection b. of this section in a format that is clear, uniform and designed to ensure that customers may accurately compare the true cost of services among different suppliers or marketers.

f. The department shall also require propane suppliers and marketers to meet the disclosure requirements in subsection b. of this section in advertising to the extent allowed by the advertising medium.

C.52:27D-512 Violations, penalties.

4. Any propane gas supplier or marketer who neglects or knowingly fails to comply with the requirements of this act or of the regulations issued thereunder shall be subject to a penalty not to exceed \$1,000 per violation, which penalty may be imposed by the department and recovered in a civil action by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Payment of any such penalty shall be remitted to the department.

C.52:27D-513 Severability.

5. The provisions of this act are severable. If any phrase, clause, sentence, provision or section is declared to be invalid or preempted by federal law or regulation, the validity of the remainder of this act shall not be affected thereby.

6. This act shall take effect immediately.

Approved August 21, 2007.