

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 182
93RD GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industrial Relations, March 8, 2005, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

Senate Committee Substitute adopted March 16, 2005.

Taken up March 16, 2005. Read 3rd time and placed upon its final passage; bill passed.

0892S.02P

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 323.020 and 323.060, RSMo, and to enact in lieu thereof three new sections relating to liquefied petroleum gases, with an effective date for a certain section.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 323.020 and 323.060, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 323.020, 323.060, and 323.075, to read as follows:

323.020. 1. The director of the department of agriculture shall make, promulgate and enforce regulations setting forth [minimum] general standards covering the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck, tank trailer, and utilizing liquefied petroleum gases and specifying the odorization of such gases and the degree thereof. The regulations shall be such as are reasonably necessary for the protection of the health, welfare and safety of the public and persons using such materials, and shall be in substantial conformity with the generally accepted standards of safety concerning the same subject matter. Such regulations shall be adopted by the director of the department of agriculture pursuant to chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority of this chapter, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

to, section 536.028, RSMo, if applicable, after January 1, 1999. All rulemaking authority delegated prior to January 1, 1999, is of no force and effect and repealed as of January 1, 1999, however nothing in this act shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to January 1, 1999. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to January 1, 1999.

2. Except as specifically provided in subsection 1 of section 323.060, regulations in substantial conformity with the published standards of the National Board of Fire Underwriters for the design, installation and construction of containers and pertinent equipment for the storage and handling of liquefied petroleum gases as recommended by the National Fire Protection Association shall be deemed to be in substantial conformity with the generally accepted standards of safety concerning the same subject matter.

323.060. 1. No person **or company** shall engage in this state in the business of selling at retail of liquefied petroleum gas[,] or in the business of handling or transportation of liquefied petroleum gas over the highways of this state [or in the business of installing, modifying, repairing, or servicing equipment and appliances for use with liquefied petroleum gas] without having first registered with the director of the department of agriculture. [No person shall engage in this state in the business of selling at retail of liquefied petroleum gas unless such person maintains and operates one or more storage tanks located in the state of Missouri with a combined capacity of at least eighteen thousand gallons, except that such storage capacity requirements shall apply only to businesses engaged in bulk sales of liquefied petroleum.] **Registration must be in the appropriate class as determined by the director.**

2. **No person or company shall engage in this state in the business of installing, modifying, repairing, or servicing equipment and appliances for use with liquefied petroleum gas without having first registered with the director of the department of agriculture. Registration must be in the appropriate classes as determined by the director.**

3. Nonresidents of the state of Missouri desiring to engage in the business of distribution of liquefied petroleum gases at retail, or the business of installing, repairing or servicing equipment and appliances for use of liquefied petroleum gases, shall comply with sections 323.010 to 323.110 and rules and regulations promulgated [thereunder] **hereunder.**

[3.] 4. No person registered pursuant to this section and engaged in this state in the business of selling at retail of liquefied petroleum gas or in the business of handling or

transportation of liquefied petroleum gas over the highways of this state shall be liable for actual or punitive civil damages for injury to persons or property that result from any occurrence caused by the installation, modification, repair, or servicing of equipment and appliances for use with liquefied petroleum gas by any other person unless such registered person had received written notification or had other actual knowledge of such installation, modification, repair, or servicing of equipment and appliances and failed to inspect such installation, modification, repair, or servicing of equipment and appliances within thirty days after receipt of such notice or actual knowledge.

[4.] 5. Nothing in this section is intended to limit the liability of any person for any damages that arise directly from the gross negligence or willful or wanton acts of such person.

[5.] 6. All utility operations of public utility companies subject to the safety jurisdiction of the public service commission are exempt from the provisions of this section.

7. **Persons who only sell liquefied petroleum gas in containers having a capacity of fifty pounds or less that have been filled by another person registered under this chapter are exempt from the provisions of this section.**

323.075. 1. Every person required to be registered under this chapter shall demonstrate financial responsibility for compensating third parties for bodily injury and property damage caused by the release of liquefied petroleum gas. The minimum amount of financial responsibility shall be one million dollars per occurrence with an annual aggregate of two million dollars.

2. A person may demonstrate financial responsibility required in subsection 1 of this section either by self insurance or by being insured in the manner set forth in this section.

3. A registrant may demonstrate financial responsibility by obtaining liability insurance in the required amounts as an endorsement to an existing policy or as a separate policy issued by an insurance company authorized by the department of insurance to transact the business of insurance in the state of Missouri. The endorsement or policy shall include a requirement that the insurance company deliver a copy of any final notice of cancellation to the department of agriculture at the same time such a notice is provided to the insured. A copy of the certificate of insurance evidencing such coverage shall accompany any original application. The original insurance policy, any relevant endorsements, and the certificate of insurance must be made available upon request for examination and copying by the department of agriculture.

4. The director may promulgate regulations governing acceptable forms of self insurance.

5. Any rule or portion of a rule, as that term is defined in section 536.010,

RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

6. The provisions of this section shall become effective on January 1, 2006.

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