

2007 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB273)

Received: 01/16/2008

Received By: mglass

Wanted: As time permits

Identical to LRB:

For: Alan Lasee (608) 266-3512

By/Representing: Jennifer Esser

This file may be shown to any legislator: NO

Drafter: mglass

May Contact:

Addl. Drafters:

Subject: Buildings/Safety - misc.

Extra Copies:

Submit via email: YES

Requester's email: Sen.Lasee@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Penalty changes to liquefied petroleum gas and digger's hotline provisions

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	mglass 01/17/2008	bkraft 01/25/2008	nmatzke 01/25/2008	_____	cduerst 01/25/2008	cduerst 01/25/2008	
		bkraft 01/25/2008		_____			

FE Sent For:

<END>

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/?	mglass	1 bjk 1/25	nmm 1/25	nmm/bjk 1/25			

FE Sent For:

<END>

Gibson-Glass, Mary

From: Nowlan, Andrew
Sent: Thursday, January 03, 2008 3:40 PM
To: Gibson-Glass, Mary
Subject: FW: Propane amendment

Mary,

Regarding the sub, here are the suggestions from the propane assoc and fed of coops. Can we do this?

Andrew Nowlan
Research Assistant
Office of Rep. Garey Bies

See
file
for ASA 1 to AB 515

From: Tim Clay [mailto:Tim.Clay@wfcmac.coop]
Sent: Thursday, January 03, 2008 3:33 PM
To: Nowlan, Andrew
Cc: rknapp@centurytel.net; Esser, Jennifer; John Manske
Subject: RE: Propane amendment

Andrew,

I've had a chance to review the language and discussed potential options with Randy Knapp. Here is what we would suggest as a penalty for intentionally doing business without a license or financial responsibility:

Current drafter proposal:

101.16 (5) (cm) Any retail supplier who intentionally violates sub. (3g) or (3r) shall be fined not less than \$**** nor more than than \$**** or shall be imprisoned not less than ** days nor more than ** months.

Rather than specifying a new forfeiture amount in 101.16 (5) (cm), use the same financial penalty amounts in (5) (b) or (5)(c) as the range or the option of imprisonment for not less than 30 days nor more than 6 months. Most importantly, like other penalty provisions in this chapter of the statutes, we would want the penalty to be either a fine or imprisonment, not both.

Justifications:

The current proposal sets different civil penalties for persons who fill stationary tanks vs. those who fill cylinders or recreation fuel tanks (unintentional violations). The drafter's proposal does not differentiate between retailer types for intentional violations (operating without a license or without financial responsibility). We would like to avoid giving the impression that we are changing the penalty provisions late in the game for cylinder fillers (putting them in the same boat as other retailers for intentional violations). This could be a problem if the cylinder filler representatives get the impression that we are end-running them. It is also worth pointing out that the civil penalties are not insignificant dollar amounts (\$500-\$5,000 for stationary tank fillers; \$200--\$2,000 for cylinder fillers). The imprisonment period would be consistent with other sections of the statute and the financial penalty option would be in the same amount that has already been presented and heard in a Senate and Assembly

hearing. We hope that with this minor tweak, it won't create a speed bump in the Senate. The big hammer we are adding is the possibility of imprisonment for blatant disregard of the law, and I suspect that carries more weight than tweaking the financial penalty amount. Perhaps Jen has something to add to make sure we make the difference between the two bills as small as possible but still achieve the desired outcome.

Give me a call if you have any questions.

Tim Clay
Wisconsin Federation of Cooperatives
258-4384

From: "Nowlan, Andrew" [mailto:Andrew.Nowlan@legis.wisconsin.gov]
Sent: Thursday, January 03, 2008 9:28 AM
To: "Esser, Jennifer" <Jennifer.Esser@legis.wisconsin.gov>, "Tim Clay" <Tim.Clay@wfcmac.coop>, "John Manske" <John.Manske@wfcmac.coop>, "Randy Knapp" <rknapp@centurytel.net>
Subject: Propane amendment

Hi folks, hope everyone had a great holiday season. Below is the new sub to AB 515. Take a look at it and the drafter's note and let me know how we want to proceed.

<<D-note for LRB s0211/P1>> <<Draft review: LRB 07s0211/P1 Topic: Changes in penalties and other changes to liquefied petroleum gas regulation provisions>>

Andrew Nowlan
Research Assistant
Office of Rep. Garey Bies

Gibson-Glass, Mary

From: Esser, Jennifer
Sent: Tuesday, January 15, 2008 3:31 PM
To: Gibson-Glass, Mary
Cc: Nowlan, Andrew
Subject: Senate Propane Bill Clean Up

Hi Mary,

I apologize for all this confusion on the Senate side with the propane bill, but I know that with the Assembly sub that you drafted to AB 515, this sub covers all of the Senate amendments plus adds the penalty language in that was just noted.

With SB 273 in the Joint Committee on Finance and a possible hearing yet this month, it was suggested that I get a simple drafted to the sub of SB 273 to cover that penalty language that both Legislative Council recommended. I was hoping to wait until the floor session to do this, but JFC people want two identical bills in front of them.

How much of a problem would it be to get a simple to the sub with this last piece?

Thanks so much. Again, my apologies—this should never have become so complicated!

Jen
Office of Sen. Lasee

Gibson-Glass, Mary

From: Esser, Jennifer
Sent: Wednesday, January 23, 2008 3:49 PM
To: Gibson-Glass, Mary
Cc: Nowlan, Andrew
Subject: FW: Alternate Language (SB 273)

Hi Mary:

I know you're still drafting my simple on the penalty language.

We just received an additional minor concern that will need another simple for sub to SB 273. The bottom outlines what we need. I know Andrew will be contacting you, if he has not already, about doing something for the Assembly version.

Just when I thought this was all over with.

So whatever you prefer as far as combining the penalties and this together or making 2 separate simples. I'll let you make the call that's easiest for you.

Thanks in advance.

Jen
Office of Sen. Lasee

-----Original Message-----

From: Haubrich.Joel [mailto:Joel.Haubrich@we-energies.com]
Sent: Tuesday, January 22, 2008 2:14 PM
To: Kristin.Ruesch@legis.wisconsin.gov; Reid.Mary
Cc: JSumi@mge.com; bskewes@wisconsinutilities.com; BillJordahl@alliantenergy.com
Subject: Alternate Language

Hi Kristen,

Attached is alternate language that may fix the problem. My first language may go to far.

Suggested Alternative to WUCA Wording 182.0175(2) (am) 3:

"Maintain an estimated minimum clearance of 18 inches between a marking for an unexposed underground transmission facility that is marked under sub.(2m) and the cutting edge or point of any power-operated excavating or earth moving equipment except as is necessary at the beginning of the excavation process to penetrate and remove the surface pavement layer. For the purpose of this paragraph the term pavement is defined to be asphalt or concrete. Once the underground transmission facility becomes exposed or if the transmission facility is already exposed, the excavator may reduce the clearance to 2 times the known limit of control of the cutting edge or point of the equipment or 12 inches, whichever is greater."

Joel Haubrich
Wisconsin Energy
Government Affairs
(414) 221-4102
(608) 283-3004

2007

7

Date (time) needed

Soon

LRBa 1093 / 1

EMR

un/17 Today ←

AMENDMENT

MOB: bk: _____

See form AMENDMENTS — COMPONENTS & ITEMS.

stet
S A AMENDMENT

TO S A AMENDMENT (LRBa 1),

TO S A SUBSTITUTE AMENDMENT 1 (LRBs 1),

TO 2007 SB SJR SR AB AJR AR 273 (LRB- 1)

SAV
x-ref
bhv

At the locations indicated, amend the _____ as follows:

(fill ONLY if "engrossed" or "as shown by")

#. Page 8, line 23: delete ↓ Each day of violation constitutes a separate offense

#. Page 9, line 3: delete ↓ Each day of violation constitutes a separate offense ^{not scored}

#. Page 9, line 6: after ↓ (3g) ⊕ insert ↓ or (3r) ⊕

#. Page 9, line 9: after ↓ (3g) ⊕ insert ↓ or (3r) ⊕

#. Page 9, line 15: after that line insert?

Insert A

(3g) (3r)

Page 9 line 17 after (3g) insert or (3r)

Page 10 line 4 substitute \$2,000 for \$2000

Page 14 line 11 substitute takes for take

Page 14 line 12 substitute statutes for statutes

Page 14 line 14 delete lines 14 and 15 and substitute

INSERT B

28 - fr 2

Page 10 line 19 after that line insert SECTION m CR; 182.0175(1)(bu)

182.0175(1)(bu) Pavement means asphalt or concrete pavement

Page 13 line 11 delete lines 11 and 12 and substitute of the excavation process to penetrate and remove the surface layer of pavement when the underground transmission facility is becomes exposed or if the

(END)

1 than ~~\$100~~ \$2,000, or shall be imprisoned not less than 30 days nor more than 6
2 months.

3 SECTION 21. 101.16 (5) (ac) of the statutes is created to read:

4 101.16 (5) (ac) Except as provided in par. (am), any person who violates sub.
5 (3) or (4) or any rule promulgated under sub. (2) shall forfeit not less than \$10 nor
6 more than \$1,000.

7 SECTION 22. 101.16 (5) (b) of the statutes is created to read:

8 101.16 (5) (b) Except as provided in par. (c), any retail supplier who violates
9 sub. (3g) or (3r) shall forfeit not less than \$500 nor more than \$1,000 for the first
10 offense and not less than \$2,000 nor more than \$5,000 for each subsequent offense.

11 SECTION 23. 101.16 (5) (c) of the statutes is created to read:

12 101.16 (5) (c) Any retail supplier who violates sub. (3g) or (3r) shall forfeit not
13 less than \$200 nor more than \$400 for the first offense and not less than \$800 nor
14 more than \$2,000 for each subsequent offense if the retail supplier is one of the
15 following:

- 16 1. A retail supplier who only fills department of transportation cylinders.
- 17 2. A retail supplier who only fills containers for engine and recreational vehicle
- 18 fueling systems.

19 SECTION 24. 101.16 (5) (cg) of the statutes is created to read:

20 101.16 (5) (cg) Paragraphs (b) and (c) do not apply to intentional violations of
21 subs. (3g) or (3r).

22 SECTION 25. 101.16 (5) (cm) of the statutes is created to read:

23 101.16 (5) (cm) Except as provided in par. (cn), any retail supplier who
24 intentionally violates sub. (3g) or (3r) shall be imprisoned not less than 30 days nor
25 more than 6 months or shall be fined not less than \$500 nor more than \$1,000 for the

INSERT
A

insert A
continued

1 first offense and not less than \$2,000 nor more than \$5,000 for each subsequent
2 offense.

23k
frz.

INSERT
A (cont)

3 SECTION 26. 101.16 (5) (cn) of the statutes is created to read:

4 101.16 (5) (cn) Any retail supplier who only fills department of transportation
5 cylinders or containers for engine and recreational vehicles and who intentionally
6 violates sub. (3g) or (3r) shall be imprisoned not less than 30 days nor more than 6
7 months or shall be fined not less than \$200 nor more than \$400 for the first offense
8 and not less than \$800 nor more than \$2,000 for each subsequent offense.

9 SECTION 27. 101.16 (5) (cr) of the statutes is created to read:

23m
frz.

- 10 101.16 (5) (cr) 1. Each day of violation of sub. (3) constitutes a separate offense.
- 11 2. Each day of violation of sub. (3g) constitutes a separate offense.
- 12 3. Each day of violation of sub. (3r) constitutes a separate offense.
- 13 4. Each day of violation of sub. (4) constitutes a separate offense.

end of insert A

14 SECTION 28. 101.16 (5) (d) of the statutes is created to read:

15 101.16 (5) (d) If a retail supplier is found in violation of sub. (3g) or (3r), the
16 court shall require that the retail supplier cease distributing liquefied petroleum gas
17 at retail until the retail supplier is issued the license required under sub. (3g).

18 SECTION 29. 101.16 (5m) of the statutes is created to read:

19 101.16 (5m) CIVIL LIABILITY. (a) Any retail supplier who is licensed under sub.
20 (3g) and who suffers damages caused by the filling of a container that is not a
21 department of transportation cylinder by another retail supplier who is not so
22 licensed may bring an action against the unlicensed retail supplier to do any of the
23 following:

- 24 1. Enjoin the unlicensed retail supplier from distributing liquefied petroleum
25 gas at retail until the retail supplier receives the required license.

1 secretary of administration may not require the department of commerce to prepare
2 an economic impact report for these rules.

3 **SECTION 47. Effective dates.** This act takes effect on the day after publication,
4 except as follows:

5 (1) The renumbering and amendment of section 101.16 (4) of the statutes and
6 the creation of section 101.16 (4) (title), (b), and (c) of the statutes take effect on the
7 first day of the 6th month beginning after publication.

8 (2) The treatment of section 182.0175 (1) (bv) and (c) (intro.), 1., and 2., (1m)
9 (a), (b), (bm), (d) 4m. and 5., and (e) 1., and (2m) (bm) (title) and (br) of the statutes
10 takes effect on the first day of the 13th month beginning after publication.

11 (3) The treatment of section 101.16 (3g), (3r), and (5m) of the statutes, the
12 renumbering and amendment of section 101.16 (5) of the statutes, and the creation
13 of section 101.16 (5) (title), (ac), (b), (c), (cg), (cm), (cn), (cr), and (d) of the statutes take
14 effect on the first day of the 16th month beginning after publication. ^{2/6}

15

(END)

INSERT B