



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2007 Senate Bill 273

**Senate Substitute Amendment 1
and Senate Amendments 1 and
2 to Senate Substitute
Amendment 1**

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Senate Bill 273

Senate Bill 273 relates to the regulation of liquefied petroleum gas (LPG), a fuel that may be composed of a number of specified hydrocarbons or mixtures of these hydrocarbons, including propane.

The bill establishes a number of requirements for “retail suppliers” of LPG, including that they must be licensed by the Department of Commerce to distribute LPG, maintain proof of financial responsibility, and provide a written notice specified in the bill to each customer who owns, leases, or uses a “propane gas system” and obtains propane gas from the retail supplier. The bill authorizes a retail supplier to evacuate an LPG container not under the supplier’s ownership under specified conditions and creates a civil cause of action for a licensed retail supplier suffering damages caused by an unlicensed retail supplier filling LPG into a container that does not meet U.S. Department of Transportation regulations.

Senate Substitute Amendment 1

Senate Substitute Amendment 1 makes the following changes to the bill.

License fee: The *bill* requires the Department of Commerce to fix and collect fees for issuing the license required under the bill to LPG retail suppliers. These fees must, as close as possible, equal the cost of providing this service. The *substitute amendment* specifies in a new provision that the annual license fee for a retail supplier of LPG who only fills “Department of Transportation cylinders” shall be \$20. [An example of these cylinders is a 20-pound propane tank used to provide fuel to a barbecue grill.]

Excavation clearances: Under the *current law* governing the diggers hotline system, each excavator must maintain specified clearances between an underground transmission facility marked

under this system and the cutting edge or point of any power-operated excavating earth moving equipment. The *substitute amendment* specifies in a new provision that the minimum clearance for an unexposed underground transmission facility is measured between a marking for the facility and this cutting edge or point rather than between the facility and the cutting edge or point. The substitute amendment also creates an exception for the minimum clearance for an unexposed underground transmission facility to be a clearance as necessary at the beginning of the excavation process to penetrate and remove pavement, rock, or other hard materials.

Notice to propane customers: The *substitute amendment* authorizes the Department of Commerce in a new provision to require by rule retail suppliers of propane to inform their customers each year of the obligation of owners of transmission facilities under the diggers hotline law.

Penalties: The *bill* applies the criminal penalties in the current LPG law administered by the Department of Commerce to violations of Commerce's rules for the design, construction, operation, and maintenance of LPG equipment and the requirements in the bill relating to filling, evacuating, and use of LPG containers, and various requirements to provide information. The *substitute amendment* limits the application of these criminal penalties to *intentional* violations of these rules and requirements, increases the maximum fine from \$100 to \$2,000 and establishes that each day of violation constitutes a separate offense. The substitute amendment also adds civil penalties for the violation of these rules and requirements of a civil forfeiture of not less than \$10 nor more than \$1,000, with each day of violation constituting a separate offense.

Technical clarifications and corrections: The substitute amendment makes various technical clarifications and corrections including incorporating Legislative Reference Bureau corrections to the original bill, clarifying how information is provided from the diggers hotline system to a person providing notice on an intended excavation activity, correcting grammar through the removal of certain commas, and making the references to the various hydrocarbons included in the definition of LPG consistent and nonduplicative.

Senate Amendment 1 to Senate Substitute Amendment 1

Senate Amendment 1 makes two technical corrections to Senate Substitute Amendment 1.

Senate Amendment 2 to Senate Substitute Amendment 1

Penalties: Senate Amendment 2 further modifies the penalty provisions of the bill, resulting in the following penalty structure:

- For the intentional violation of requirements regarding the handling of liquefied petroleum gas containers and providing notices to customers: a fine of \$25 to \$2,000 or imprisonment for 30 days to six months (but not both).
- For most intentional violations of requirements regarding licensing or demonstration of financial responsibility: a fine of \$500 to \$1,000 for the first offense and \$2,000 to \$5,000 for subsequent offenses or imprisonment for 30 days to six months (but not both).

- For the intentional violation of requirements regarding licensing or demonstration of financial responsibility by a person who fills only specified types of containers: a fine of \$200 to \$400 for the first offense and \$200 to \$2,000 for subsequent offenses or imprisonment for 30 days to six months (but not both).
- For the unintentional violation of requirements regarding the handling of liquefied petroleum gas containers and providing notices to customers: a forfeiture of \$10 to \$1,000.
- For most unintentional violations of requirements regarding licensing or demonstration of financial responsibility: a forfeiture of \$500 to \$1,000 for the first offense and \$1,000 to \$5,000 for subsequent offenses.
- For the unintentional violation of requirements regarding licensing or demonstration of financial responsibility by a person who fills only specified types of containers: a forfeiture of \$200 to \$400 for the first offense and \$800 to \$2,000 for subsequent offenses.

With regard to all of the foregoing penalties, each day of violation is a separate offense.

Excavations: Under *current law*, an excavator must maintain a clearance of 18 inches between the excavating equipment and marked underground transmission facilities. The *substitute amendment* provides an exception to this requirement “as necessary at the beginning of the excavation process to penetrate and remove pavement, rock, or other hard materials.” *Senate Amendment 2* modifies this exception to apply only to the penetration and removal of “the surface layer of pavement.”

Related Legislation

2007 Assembly Bill 515 is identical to 2007 Senate Bill 273, so-called “companion bills.” Assembly Substitute Amendment 1 to Assembly Bill 515 is *not* identical to Senate Substitute Amendment 1 to Senate Bill 273; however, they are made identical by the adoption of Assembly Amendment 1 to Assembly Substitute Amendment 1 to Assembly Bill 515 and Senate Amendments 1 and 2 to Senate Substitute Amendment 1 to Senate Bill 273.

Legislative History

On November 29, 2007, the Senate Committee on Commerce, Utilities and Rail voted to recommend adoption of Senate Amendment 1 to Senate Substitute Amendment 1, adoption of Senate Substitute Amendment 1 as amended, and passage of Senate Bill 273, as amended, on votes of Ayes, 7; Noes 0.

On January 30, 2008, the Joint Committee on Finance voted to recommend adoption of Senate Amendments 1 and 2 to Senate Substitute Amendment 1 and adoption of Senate Substitute Amendment 1, as amended, on votes of Ayes, 16; Noes, 0, and passage of Senate Bill 273, as amended, on a vote of Ayes, 15; Noes, 1.

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