

2015 DRAFTING REQUEST

Bill

Received: 11/3/2015 Received By: rkite
For: Frank Lasee (608) 266-3512 Same as LRB: -4190
May Contact: By/Representing: Rob Kovach
Subject: Buildings/Safety - lic and reg Drafter: kpleviak
Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Sen.Lasee@legis.wisconsin.gov
Carbon copy (CC) to: krista.pleviak@legis.wisconsin.gov
robin.kite@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Financial responsibility requirements for sellers of liquefied petroleum gas

Instructions:

Redraft of 13-3769

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kpleviak 11/3/2015	anienaja 11/4/2015	_____			
/P1	kpleviak 11/6/2015		_____	sbasford 11/4/2015		
/P2	kpleviak 12/28/2015	anienaja 11/9/2015	_____	sbasford 11/9/2015		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1		anienaja 12/28/2015	_____ _____	srose 12/28/2015	lparisi 1/7/2016	

FE Sent For:

now

<END>

Pleviak, Krista

From: Kite, Robin
Sent: Monday, November 02, 2015 4:13 PM
To: Kunkel, Mark; Pleviak, Krista
Cc: Gallagher, Michael
Subject: FW: Re-draft request ... FW: 2013 LRB 3769

This is a buildings and safety draft. Do one of you want this one? If you are both too busy, I can take it.

Robin

From: LRB.Legal
Sent: Monday, November 02, 2015 4:06 PM
To: Gallagher, Michael <Michael.Gallagher@legis.wisconsin.gov>; Kite, Robin <Robin.Kite@legis.wisconsin.gov>
Subject: Re-draft request ... FW: 2013 LRB 3769

From: Kovach, Robert
Sent: Monday, November 02, 2015 4:03 PM
To: LRB.Legal <lrblegal@legis.wisconsin.gov>
Subject: 2013 LRB 3769

Dear LRB legal,

Could you please redraft 2013 LRB-3769 for Senator Lasee to use this session? Thanks!

Please ask the drafter to check that all of the changes below are addressed in the bill. Thanks!

W

/0 **1.16 Liquefied petroleum gas.**

(1) DEFINITIONS. In this section:

- (a) "Department of transportation cylinder" means a container that holds liquefied petroleum gas and that meets the specifications established by the federal department of transportation.
- (b) "Liquefied petroleum gas" means any material which is composed predominantly of, or any mixtures of, any of the following hydrocarbons including their isomers:
1. Propane.
 2. Propylene.
 3. Butane.
 4. Butylene.
- (c) "Propane gas system" means an assembly consisting of one or more containers that has a total water capacity of at least 100 gallons and a means of conveying propane gas from the container or containers to a point of connection with devices used to consume the propane gas. A "propane gas system" includes all piping and other components associated with the assembly that are used to control the quantity, flow, pressure, and physical state of the propane gas.

(d) "Retail supplier" means a person engaged in the business of filling containers that have a water capacity of at least 4 pounds with liquefied petroleum gas that is intended to be used directly from the containers as fuel. "Retail supplier" does not include a person who fills such containers with liquefied petroleum gas for the person's own use.

(2) RULES. The department shall promulgate rules to ascertain, fix, and order such reasonable standards, rules, or regulations for the design, construction, location, installation, operation, repair, and maintenance of equipment for storage, handling, use, and transportation by tank truck or tank trailer, of liquefied petroleum gases for fuel purposes, and for the odorization of said gases used therewith, as shall render such equipment safe.

(3) FILLING, EVACUATING, AND USE OF CONTAINERS.

(a) Except as provided in par. (b), no person, other than the owner of a liquefied petroleum gas container or a person authorized by the owner, may fill, refill, evacuate, or use in any other manner the container for any purpose.

(b) A retail supplier may evacuate a liquefied petroleum gas container not under its ownership in order to transfer the remaining liquefied petroleum gas that is in that container into a container that is under its ownership.

(3g) LICENSE REQUIRED.

✓ (a) No retail supplier may distribute liquefied petroleum gas without holding a license issued by the department. The department, subject to s. 101.02 (20) and (21), shall issue a license to be a retail supplier upon receiving the fee established under s. 101.19 (1g) (L) or (1m) and upon obtaining proof of ~~financial responsibility as required under sub. (3r) (e)~~ general commercial liability insurance. The term of the license shall be set by the department, not to exceed 2 years.

✓ (b) The department shall publish an annual list of all retail suppliers holding valid licenses under par. (a) on the agency's website and update the information on an on-going basis. *See section 9 of the bill.*

✓ (3r) ~~FINANCIAL RESPONSIBILITY~~ GENERAL COMMERCIAL LIABILITY INSURANCE.

✓ (a) Except as provided in par. (b), a retail supplier shall maintain proof of ~~financial responsibility~~ general commercial liability insurance in the amount of \$1,000,000 per occurrence with an annual aggregate of \$2,000,000 for compensating 3rd parties for bodily injury and property damages for incidents associated with the release of liquefied petroleum gas.

✓ (b) A retail supplier who only fills department of transportation cylinders or who only fills containers for engine and recreational vehicle fueling systems shall maintain proof of ~~financial responsibility~~ general commercial liability insurance in the amount of \$500,000 per occurrence with an annual aggregate of \$1,000,000 for compensating 3rd parties for bodily injury and property damages for incidents associated with the release of liquefied petroleum gas.

✓ (c) A retail supplier ~~may~~ must obtain any of the following to prove ~~financial responsibility as required under par. (a) or (b)~~:

✓ 1. ~~A surety bond that is issued by a surety company that is listed as an acceptable surety for federal bonds on the date that the surety bond is obtained in the most recently published U.S. department of the treasury's circular 570.~~

✓ 2. ~~An irrevocable letter of credit that is issued by a financial institution that is authorized to do business in this state or that is federally chartered. The letter of credit shall be for an initial period of at least one year.~~

✓ 3. Commercial general liability insurance as an endorsement to an existing policy or as a separate policy from an insurer, or a risk retention group, that is licensed to transact the business of insurance in this state or that is eligible to provide insurance as a surplus lines insurer in one or more states.

✓ (d) A retail supplier who fails to maintain proof of ~~financial responsibility~~ general commercial liability insurance as required under par. (a) or (b), may not distribute liquefied petroleum gas at retail until such proof is obtained and the license is issued and posted by the department. *See section 9 of the bill.*

✓ (e) Each retail supplier shall file proof of ~~financial responsibility~~ general commercial liability insurance as required under this subsection with the department.

✓ (f) A 3rd party that issues a ~~surety bond, a letter of credit, or~~ general liability insurance to a retail supplier for purposes of this subsection shall provide written notice to the retail supplier and to the department at least 60 days before canceling, revoking, suspending, or failing to renew the ~~bond, letter, or~~ insurance.

✓ (g) A retail supplier that cancels or fails to renew a ~~surety bond, a letter of credit, or~~ general liability insurance shall notify the department at least 60 days before cancelling or failing to renew the ~~bond, letter, or~~ insurance. Upon receipt of the notice, the department shall revoke the retail supplier's license issued under sub. (3g).

✓ (h) ~~A financial institution that issues an irrevocable letter of credit to a retail supplier for purposes of this subsection shall renew the letter automatically unless notice is given as required under par. (f).~~

(4) REQUIREMENTS TO PROVIDE INFORMATION.

(a) The person actually performing the work of installing equipment utilizing liquefied petroleum gas for fuel purposes shall furnish the user of the equipment a statement, the form of which shall be prescribed by the department, showing that the design, construction, location, and installation of the equipment conforms with the rules promulgated by the department under this section.

(b)

1. A person who owns, leases, or uses a propane gas system and who is a customer of a retail supplier shall notify the retail supplier of propane gas for the propane gas system of any interruption in the operation of the propane gas system due to the replacement, modification, repair, or servicing of the propane gas system by any person other than the retail supplier. The customer shall provide the notice at least 7 days in advance of the interruption in the operation of the propane gas system, except as provided in subd. 2. The retail supplier, or the person replacing, modifying, repairing, or servicing the propane gas system, shall perform a check for leaks or other defects in the propane gas system before placing the propane gas system back into operation in the manner required by rule.

2. If the interruption of a propane gas system subject to subd. 1, is due to emergency repair or servicing, the customer shall provide the notice to the retail supplier as soon as possible and no later than 24 hours after the repair or servicing is completed.

(c) Each retail supplier filling a container that is part of a propane gas system shall provide written notice to each customer subject to par. (b) of the customer's duty under par. (b) before the retail supplier's first delivery of propane gas to that customer and shall provide subsequent notices on an annual basis. The notice shall include all of the following information concerning the duty to notify under par. (b):

1. The name, address, and telephone number of the retail supplier.

2. The purpose of giving the notification to the retail supplier.

3. A description of the type of propane gas system that is subject to the notification requirement.

4. A description of the types of activities that constitute a replacement, modification, repair, or servicing of a propane gas system.

5. A copy of the provisions under s. 101.16 (4) (b).

(5) PENALTIES.

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

(am) Any person who intentionally violates sub. (3) or (4) or any rule promulgated under sub. (2) shall be fined not less than \$25 nor more than \$2,000, or shall be imprisoned not less than 30 days nor more than 6 months.

(b) Except as provided in par. (c), any retail supplier who violates sub. (3g) or (3r) shall forfeit not less than \$500 and not more than \$1,000 for the first offense and not less than \$2,000 but not more than \$5,000 for each subsequent offense.

(c) Any retail supplier who violates sub. (3g) or (3r) shall forfeit not less than \$200 and not more than \$400 for the first offense and not less than \$800 but not more than \$2,000 for each subsequent offense if the retail supplier is one of the following:

1. A retail supplier who only fills department of transportation cylinders.

2. A retail supplier who only fills containers for engine and recreational vehicle fueling systems.

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

(cm) Except as provided in par. (cn), any retail supplier who intentionally violates sub. (3g) or (3r) shall be imprisoned not less than 30 days nor more than 6 months or shall be fined not less than \$500 nor more than \$1,000 for the first offense and not less than \$2,000 nor more than \$5,000 for each subsequent offense.

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

(cr)

1. Each day of violation of sub. (3) constitutes a separate offense.

2. Each day of violation of sub. (3g) constitutes a separate offense.

3. Each day of violation of sub. (3r) constitutes a separate offense.

4. Each day of violation of sub. (4) constitutes a separate offense.

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

(5m) CIVIL LIABILITY.

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

1. Enjoin the unlicensed retail supplier from distributing liquefied petroleum gas at retail until the retail supplier receives the required license.
2. Receive monetary damages equal to 3 times the amount of any monetary loss sustained or \$2,000, whichever is greater, multiplied by each day that the unlicensed supplier is not licensed under sub. (3g).

(b) Notwithstanding s. 814.04 (1), a retail supplier who prevails in an action under par. (a) shall be awarded reasonable attorney fees.

(c) An action under this subsection shall be commenced within 180 days after the cause of action accrues or be barred.

(6) EXEMPTION. This section does not apply to railroads engaged in interstate commerce or to equipment used by them.

History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

Cross-reference: See also ss. SPS 305.73 and 340.40, Wis. adm. code.

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512



State of Wisconsin
2013 - 2014 LEGISLATURE

IN: 11/03/15

DUE: 11/04/15 (Wed.)



3776/F1

LRB-3769/1

MGG:sac&eev:jl

KRP amr

2013 BILL

SA ✓
Krefr

This bill requires a retail supplier of liquefied petroleum gas (LPG) to obtain commercial general liability insurance.

Gen. ✓

1 AN ACT *to repeal* 101.16 (3r) (c) 1., 101.16 (3r) (c) 2. and 101.16 (3r) (h); *to*
2 *consolidate, renumber and amend* 101.16 (3r) (c) (intro.) and 3.; *to amend*
3 101.16 (3g) (a), 101.16 (3r) (a), 101.16 (3r) (b), 101.16 (3r) (d), 101.16 (3r) (e),
4 101.16 (3r) (f) and 101.16 (3r) (g); and *to repeal and recreate* 101.16 (3r) (title)
5 of the statutes; **relating to:** requirements imposed on retail suppliers of
6 liquefied petroleum gas for proving financial responsibility.

Analysis by the Legislative Reference Bureau

Under current law, a retail supplier of liquefied petroleum gas (LPG) must hold a license issued by the Department of Safety and Professional Services. In order to receive a license, a retail supplier must maintain proof of financial responsibility of the supplier's ability to pay claims for bodily injury or property damages caused by incidents associated with the release of LPG. Under current law, a retail supplier may prove financial responsibility by obtaining a surety bond, an irrevocable letter of credit, or commercial general liability insurance. The bond, letter of credit, or insurance must be for a total annual amount of \$2,000,000 with \$1,000,000 per occurrence or a total annual amount of \$1,000,000 with \$500,000 per occurrence. The amount depends on the type of containers that the retail supplier fills.

BILL

This bill eliminates the options of obtaining a surety bond or a letter of credit. Under the bill, commercial general liability insurance must be obtained.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 ~~X~~
SECTION 1. 101.16 (3g) (a) of the statutes is amended to read:

2 ~~X~~ 101.16 (3g) (a) No retail supplier may distribute liquefied petroleum gas
3 without holding a license issued by the department. The department, subject to s.
4 101.02 (20) and (21), shall issue a license to be a retail supplier upon receiving the
5 fee established under s. 101.19 (1g) (L) or (1m) and upon the retail supplier's
6 obtaining proof of financial responsibility commercial general liability insurance as
7 required under sub. (3r) (c). The term of the license shall be set by the department,
8 not to exceed 2 years.

9 ~~X~~
SECTION 2. 101.16 (3r) (title) of the statutes is repealed and recreated to read:

10 ~~X~~ 101.16 (3r) (title) COMMERCIAL GENERAL LIABILITY INSURANCE.

11 ~~X~~
SECTION 3. 101.16 (3r) (a) of the statutes is amended to read:

12 ~~X~~ 101.16 (3r) (a) Except as provided in par. (b), a retail supplier shall maintain
13 proof of financial responsibility commercial general liability insurance in the
14 amount of \$1,000,000 per occurrence with an annual aggregate of \$2,000,000 for
15 compensating 3rd parties for bodily injury and property damages for incidents
16 associated with the release of liquefied petroleum gas.

17 ~~X~~
SECTION 4. 101.16 (3r) (b) of the statutes is amended to read:

18 ~~X~~ 101.16 (3r) (b) A retail supplier who only fills department of transportation
19 cylinders or who only fills containers for engine and recreational vehicle fueling
20 systems shall maintain proof of financial responsibility commercial general liability
21 insurance in the amount of \$500,000 per occurrence with an annual aggregate of

BILL

1 \$1,000,000 for compensating 3rd parties for bodily injury and property damages for
2 incidents associated with the release of liquefied petroleum gas.

3 **SECTION 5.** 101.16 (3r) (c) (intro.) and 3. of the statutes are consolidated,
4 renumbered 101.16 (3r) (c) and amended to read:

5 ~~101.16 (3r) (c)~~ A retail supplier may obtain any of the following to prove
6 financial responsibility as required meet the insurance requirement under par. (a)
7 or (b): ~~3. Commercial~~ by obtaining commercial general liability insurance as an
8 endorsement to an existing policy or as a separate policy from an insurer, or a risk
9 retention group, that is licensed to transact the business of insurance in this state
10 or that is eligible to provide insurance as a surplus lines insurer in one or more states.

11 **SECTION 6.** 101.16 (3r) (c) 1. of the statutes is repealed.

12 **SECTION 7.** 101.16 (3r) (c) 2. of the statutes is repealed.

13 **SECTION 8.** 101.16 (3r) (d) of the statutes is amended to read:

14 ~~101.16 (3r) (d)~~ A retail supplier who fails to maintain proof of financial
15 responsibility commercial general liability insurance as required under par. (a) or
16 (b), may not distribute liquefied petroleum gas at retail until ~~such proof~~ insurance
17 is obtained. the

18 **SECTION 9.** 101.16 (3r) (e) of the statutes is amended to read:

19 ~~101.16 (3r) (e)~~ Each retail supplier shall file with the department proof of
20 financial responsibility ~~insurance coverage~~ commercial general liability as required under this subsection with
21 the. The department shall maintain a list on the department's Internet site that
22 contains the names of each retail supplier licensed under this section and the status
23 of the retail supplier's commercial general liability coverage. insurance

24 **SECTION 10.** 101.16 (3r) (f) of the statutes is amended to read:



State of Wisconsin
2015 - 2016 LEGISLATURE

IN: 11/06/15
DUE: 11/09/15 (Mon.)

P2
LRB-3776/P1
KRP:amn
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA ✓
Xref ✓

Regent ✓

retailers

1 AN ACT *to repeal* 101.16 (3r) (c) 1., 101.16 (3r) (c) 2. and 101.16 (3r) (h); *to*
2 *consolidate, renumber and amend* 101.16 (3r) (c) (intro.) and 3.; *to amend*
3 101.16 (3g) (a), 101.16 (3r) (a), 101.16 (3r) (b), 101.16 (3r) (d), 101.16 (3r) (e),
4 101.16 (3r) (f) and 101.16 (3r) (g); and *to repeal and recreate* 101.16 (3r) (title)
5 of the statutes; **relating to:** requirements imposed on retail suppliers of
6 liquefied petroleum gas for proving financial responsibility.

retailer

Analysis by the Legislative Reference Bureau

This bill requires a retail supplier of liquefied petroleum gas (LPG) to obtain commercial general liability insurance.

Under current law, a retail supplier of LPG must hold a license issued by the Department of Safety and Professional Services. In order to receive a license, a retail supplier must maintain proof of financial responsibility of the supplier's ability to pay claims for bodily injury or property damages caused by incidents associated with the release of LPG. Under current law, a retail supplier may prove financial responsibility by obtaining a surety bond, an irrevocable letter of credit, or commercial general liability insurance.

The bill also changes the term "retail supplier" to "retailer."

This bill eliminates the options of obtaining a surety bond or a letter of credit. Under the bill, commercial general liability insurance must be obtained.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

INSERT 2-1

1 SECTION 1. 101.16 (3g) (a) of the statutes is amended to read:

2 101.16 (3g) (a) No ~~retail supplier~~ ^{retailer} may distribute liquefied petroleum gas
3 without holding a license issued by the department. The department, subject to s.
4 101.02 (20) and (21), shall issue a license to be a ~~retail supplier~~ ^{retailer} upon receiving the
5 fee established under s. 101.19 (1g) (L) or (1m) and upon the ~~retail supplier's~~ ^{retailer's}
6 obtaining ~~proof of financial responsibility~~ commercial general liability insurance as
7 required under sub. (3r) (c). The term of the license shall be set by the department,
8 not to exceed 2 years.

INSERT 2-9

9 SECTION 2. 101.16 (3r) (title) of the statutes is repealed and recreated to read:

10 101.16 (3r) (title) COMMERCIAL GENERAL LIABILITY INSURANCE.

11 SECTION 3. 101.16 (3r) (a) of the statutes is amended to read:

12 101.16 (3r) (a) Except as provided in par. (b), a ~~retail supplier~~ ^{retailer} shall maintain
13 ~~proof of financial responsibility~~ commercial general liability insurance in the
14 amount of \$1,000,000 per occurrence with an annual aggregate of \$2,000,000 for
15 compensating 3rd parties for bodily injury and property damages for incidents
16 associated with the release of liquefied petroleum gas.

17 SECTION 4. 101.16 (3r) (b) of the statutes is amended to read:

18 101.16 (3r) (b) A ~~retail supplier~~ ^{retailer} (who only fills department of transportation
19 cylinders or who only fills containers for engine and recreational vehicle fueling
20 systems shall maintain ~~proof of financial responsibility~~ commercial general liability
21 insurance in the amount of \$500,000 per occurrence with an annual aggregate of

1 \$1,000,000 for compensating 3rd parties for bodily injury and property damages for
2 incidents associated with the release of liquefied petroleum gas.

3 **SECTION 5.** 101.16 (3r) (c) (intro.) and 3. of the statutes are consolidated,
4 renumbered 101.16 (3r) (c) and amended to read:

5 101.16 (3r) (c) A ~~retail supplier~~ ^{retailer} may obtain any of the following to prove
6 financial responsibility as required meet the insurance requirement under par. (a)
7 or (b): 3. Commercial by obtaining commercial general liability insurance as an
8 endorsement to an existing policy or as a separate policy from an insurer, or a risk
9 retention group, that is licensed to transact the business of insurance in this state
10 or that is eligible to provide insurance as a surplus lines insurer in one or more states.

11 **SECTION 6.** 101.16 (3r) (c) 1. of the statutes is repealed.

12 **SECTION 7.** 101.16 (3r) (c) 2. of the statutes is repealed.

13 **SECTION 8.** 101.16 (3r) (d) of the statutes is amended to read:

14 101.16 (3r) (d) A ~~retail supplier~~ ^{retailer} who fails to maintain proof of financial
15 responsibility commercial general liability insurance as required under par. (a) or
16 (b), may not distribute liquefied petroleum gas at retail until such proof the
17 insurance is obtained.

18 **SECTION 9.** 101.16 (3r) (e) of the statutes is amended to read:

19 101.16 (3r) (e) Each ~~retail supplier~~ ^{retailer} shall file with the department proof of
20 financial responsibility commercial general liability insurance coverage as required
21 under this subsection with the. The department shall maintain a list on the ^{retailer}
22 department's Internet site that contains the names of each retail supplier licensed
23 under this section and the status of the ^{retailer's} retail supplier's commercial general liability
24 insurance coverage.

25 **SECTION 10.** 101.16 (3r) (f) of the statutes is amended to read:

SA ✓
Xref ✓

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3776/P2ins
KRP:amn

INSERT 2-1

1 SECTION 1. 101.16 (1) (d) of the statutes is amended to read:

2 ×101.16 (1) (d) “~~Retail supplier~~ Retailer” means a person engaged in the
3 business of filling containers that have a water capacity of at least 4 pounds with
4 liquefied petroleum gas that is intended to be used directly from the containers as
5 fuel. “~~Retail supplier~~ Retailer” does not include a person who fills such containers
6 with liquefied petroleum gas for the person’s own use.

History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

****NOTE: Are the persons regulated by s. 101.16 in the business of selling LPG directly to consumers, as opposed to wholesalers or suppliers that generally sell to other businesses? If the regulated persons do not sell directly to consumers, using the term “retailers” may be confusing and misleading, and we should consider whether a different term may be more accurate.

7 SECTION 2. 101.16 (3) (b) of the statutes is amended to read:

8 × 101.16 (3) (b) A ~~retail supplier~~ retailer may evacuate a liquefied petroleum gas
9 container not under ~~its~~ the retailer’s ownership in order to transfer the remaining
10 liquefied petroleum gas that is in ~~that~~ the container into a container that is under
11 ~~its~~ the retailer’s ownership.

History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

(END INSERT 2-1)

INSERT 2-9

12 SECTION 3. 101.16 (3g) (b) of the statutes is amended to read:

13 ×101.16 (3g) (b) The department shall publish an annual list of all ~~retail~~
14 ~~suppliers~~ retailers holding valid licenses under par. (a).

History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

(END INSERT 2-9)

INSERT 4-13

15 SECTION 4. 101.16 (4) (b) 1. of the statutes is amended to read:

1 X 101.16 (4) (b) 1. A person who owns, leases, or uses a propane gas system and
 2 who is a customer of a ~~retail supplier~~ retailer shall notify the ~~retail supplier~~ retailer
 3 of propane gas for the propane gas system of any interruption in the operation of the
 4 propane gas system due to the replacement, modification, repair, or servicing of the
 5 propane gas system by any person other than the ~~retail supplier~~ retailer. The
 6 customer shall provide the notice at least 7 days in advance of the interruption in the
 7 operation of the propane gas system, except as provided in subd. 2. The ~~retail~~
 8 ~~supplier~~ retailer, or the person replacing, modifying, repairing, or servicing the
 9 propane gas system, shall perform a check for leaks or other defects in the propane
 10 gas system before placing the propane gas system back into operation in the manner
 11 required by rule.

History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

12 **SECTION 5.** 101.16 (4) (b) 2. of the statutes is amended to read:

13 X 101.16 (4) (b) 2. If the interruption of a propane gas system subject to subd. 1.
 14 is due to emergency repair or servicing, the customer shall provide the notice to the
 15 ~~retail supplier~~ retailer as soon as possible and no later than 24 hours after the repair
 16 or servicing is completed.

History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

17 **SECTION 6.** 101.16 (4) (c) (intro.), 1. and 2. of the statutes are amended to read:

18 X 101.16 (4) (c) ^(intro.) Each ~~retail supplier~~ retailer filling a container that is part of a
 19 propane gas system shall provide written notice to each customer subject to par. (b)
 20 of the customer's duty under par. (b) before the ~~retail supplier's~~ retailer's first
 21 delivery of propane gas to that customer and shall provide subsequent notices on an
 22 annual basis. The notice shall include all of the following information concerning the
 23 duty to notify under par. (b):

24 1. The name, address, and telephone number of the ~~retail supplier~~ retailer.

2. The purpose of giving the notification to the ~~retail-supplier~~ retailer.

History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

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

×101.16 (5) (b) Except as provided in par. (c), any ~~retail-supplier~~ retailer who violates sub. (3g) or (3r) shall forfeit not less than \$500 and not more than \$1,000 for the first offense and not less than \$2,000 ~~but~~ and not more than \$5,000 for each subsequent offense.

History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

SECTION 8. 101.16 (5) (c) of the statutes is amended to read:

× 101.16 (5) (c) Any ~~retail-supplier~~ retailer who violates sub. (3g) or (3r) shall forfeit not less than \$200 and not more than \$400 for the first offense and not less than \$800 ~~but~~ and not more than \$2,000 for each subsequent offense if the ~~retail supplier~~ retailer is one of the following:

1. A ~~retail-supplier~~ retailer who only fills department of transportation cylinders.

2. A ~~retail-supplier~~ retailer who only fills containers for engine and recreational vehicle fueling systems.

History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

SECTION 9. 101.16 (5) (cm) of the statutes is amended to read:

×101.16 (5) (cm) Except as provided in par. (cn), any ~~retail-supplier~~ retailer who intentionally violates sub. (3g) or (3r) shall be imprisoned not less than 30 days ~~nor~~ and not more than 6 months or shall be fined not less than \$500 ~~nor~~ and not more than \$1,000 for the first offense and not less than \$2,000 ~~nor~~ and not more than \$5,000 for each subsequent offense.

History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

SECTION 10. 101.16 (5) (cn) of the statutes is amended to read:

1 × 101.16 (5) (cn) Any ~~retail supplier~~ retailer who only fills department of
 2 transportation cylinders or containers for engine and recreational vehicles and who
 3 intentionally violates sub. (3g) or (3r) shall be imprisoned not less than 30 days ~~nor~~
 4 and not more than 6 months or shall be fined not less than \$200 ~~nor~~ and not more
 5 than \$400 for the first offense and not less than \$800 ~~nor~~ and not more than \$2,000
 6 for each subsequent offense.

7 History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

7 **SECTION 11.** 101.16 (5) (d) of the statutes is amended to read:

8 × 101.16 (5) (d) If a ~~retail supplier~~ retailer is found in violation of sub. (3g) or (3r),
 9 the court shall require that the ~~retail supplier~~ retailer cease distributing liquefied
 10 petroleum gas at retail until the ~~retail supplier~~ retailer is issued the license required
 11 under sub. (3g).

12 History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

12 **SECTION 12.** 101.16 (5m) (a) of the statutes is amended to read:

13 × 101.16 (5m) (a) Any ~~retail supplier~~ retailer who is licensed under sub. (3g) and
 14 who suffers damages caused by the filling of a container that is not a department of
 15 transportation cylinder by another ~~retail supplier~~ retailer who is not so licensed may
 16 bring an action against the unlicensed ~~retail supplier~~ retailer to do any of the
 17 following:

- 18 1. Enjoin the unlicensed ~~retail supplier~~ retailer from distributing liquefied
- 19 petroleum gas at retail until the ~~retail supplier~~ retailer receives the required license.
- 20 2. Receive monetary damages equal to 3 times the amount of any monetary loss
- 21 sustained or \$2,000, whichever is greater, multiplied by each day that the unlicensed
- 22 ~~supplier~~ retailer is not licensed under sub. (3g).

23 History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

23 **SECTION 13.** 101.16 (5m) (b) of the statutes is amended to read:

1 ~~101.16 (5m)~~ (b) Notwithstanding s. 814.04 (1), a ~~retail-supplier~~ retailer who
2 prevails in an action under par. (a) shall be awarded reasonable attorney fees.

3 History: 1971 c. 185 s. 1; Stats. 1971 s. 101.16; 2007 a. 203; 2009 a. 180; 2011 a. 209; 2011 a. 260 s. 81.

3 **SECTION 14.** 101.19 (1g) (L) of the statutes is amended to read:

4 ~~101.19 (1g)~~ (L) Issuing licenses to ~~retail-suppliers~~ retailers, as defined in s.
5 101.16 (1) (d), of liquefied petroleum gas under s. 101.16 (3g), except as provided in
6 sub. (1m).

7 History: 1971 c. 185; 1971 c. 228 s. 42; Stats. 1971 ~~101.19~~; 1975 c. 39; 1977 c. 29; 1979 c. 221; 1983 a. 27, 94, 446; 1987 a. 343; 1991 a. 39, 269; 1993 a. 414; 1999 a. 53; 2001 a. 16; 2005 a. 45, 456; 2007 a. 203; 2009 a. 28; 2011 a. 32, 199, 209; 2013 a. 20, 168, 270.

7 **SECTION 15.** 101.19 (1m) of the statutes is amended to read:

8 ~~101.19 (1m)~~ The department shall collect an annual fee of \$20 for issuing a
9 license under s. 101.16 (3g) to a ~~retail-supplier~~ retailer who only fills department of
10 transportation cylinders.

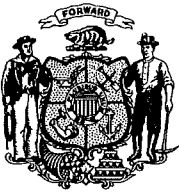
11 History: 1971 c. 185; 1971 c. 228 s. 42; Stats. 1971 ~~101.19~~; 1975 c. 39; 1977 c. 29; 1979 c. 221; 1983 a. 27, 94, 446; 1987 a. 343; 1991 a. 39, 269; 1993 a. 414; 1999 a. 53; 2001 a. 16; 2005 a. 45, 456; 2007 a. 203; 2009 a. 28; 2011 a. 32, 199, 209; 2013 a. 20, 168, 270.

11 **SECTION 16.** 182.0175 (1m) (e) 2. of the statutes is amended to read:

12 ~~182.0175 (1m)~~ (e) 2. The department of safety and professional services may
13 promulgate a rule that requires ~~retail-suppliers~~ retailers, as defined in s. 101.16 (1)
14 (d), of propane to inform their customers each year of the obligation of owners of
15 transmission facilities under this section.

History: 1973 c. 277; 1977 c. 350; 1977 c. 449 s. 497; 1983 a. 189; 1985 a. 297 s. 76; 1993 a. 482, 496; 1995 a. 135; 1999 a. 150 s. 672; 2005 a. 425; 2007 a. 96 s. 110; 2007 a. 203; 2011 a. 32.

(END INSERT 4-13)



State of Wisconsin
2015 - 2016 LEGISLATURE

IN: 12/28/15

DUE: TODAY (OR TOMORROW)

LRB-3776/P2
KRP:amn

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAV

RMR

No Changes
(except note
on p. 2)

1 **AN ACT to repeal** 101.16 (3r) (c) 1., 101.16 (3r) (c) 2. and 101.16 (3r) (h); **to**
2 **consolidate, renumber and amend** 101.16 (3r) (c) (intro.) and 3.; **to amend**
3 101.16 (1) (d), 101.16 (3) (b), 101.16 (3g) (a), 101.16 (3g) (b), 101.16 (3r) (a),
4 101.16 (3r) (b), 101.16 (3r) (d), 101.16 (3r) (e), 101.16 (3r) (f), 101.16 (3r) (g),
5 101.16 (4) (b) 1., 101.16 (4) (b) 2., 101.16 (4) (c) (intro.), 1. and 2., 101.16 (5) (b),
6 101.16 (5) (c), 101.16 (5) (cm), 101.16 (5) (cn), 101.16 (5) (d), 101.16 (5m) (a),
7 101.16 (5m) (b), 101.19 (1g) (L), 101.19 (1m) and 182.0175 (1m) (e) 2.; and **to**
8 **repeal and recreate** 101.16 (3r) (title) of the statutes; **relating to:**
9 requirements imposed on retailers of liquefied petroleum gas for proving
10 financial responsibility.

Analysis by the Legislative Reference Bureau

This bill requires a retailer of liquefied petroleum gas (LPG) to obtain commercial general liability insurance.

Under current law, a retail supplier of LPG must hold a license issued by the Department of Safety and Professional Services. In order to receive a license, a retail supplier must maintain proof of financial responsibility of the supplier's ability to pay claims for bodily injury or property damages caused by incidents associated with

the release of LPG. Under current law, a retail supplier may prove financial responsibility by obtaining a surety bond, an irrevocable letter of credit, or commercial general liability insurance.

This bill eliminates the options of obtaining a surety bond or a letter of credit. Under the bill, commercial general liability insurance must be obtained. The bill also changes the term “retail supplier” to “retailer.”

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 101.16 (1) (d) of the statutes is amended to read:

2 101.16 (1) (d) “~~Retail supplier~~ Retailer” means a person engaged in the
3 business of filling containers that have a water capacity of at least 4 pounds with
4 liquefied petroleum gas that is intended to be used directly from the containers as
5 fuel. “~~Retail supplier~~ Retailer” does not include a person who fills such containers
6 with liquefied petroleum gas for the person’s own use.

****NOTE: Are the persons regulated by s. 101.16 in the business of selling LPG directly to consumers, as opposed to wholesalers or suppliers that generally sell to other businesses? If the regulated persons do not sell directly to consumers, using the term “retailers” may be confusing and misleading, and we should consider whether a different term may be more accurate.

7 **SECTION 2.** 101.16 (3) (b) of the statutes is amended to read:

8 101.16 (3) (b) A ~~retail supplier~~ retailer may evacuate a liquefied petroleum gas
9 container not under ~~its~~ the retailer’s ownership in order to transfer the remaining
10 liquefied petroleum gas that is in ~~that~~ the container into a container that is under
11 ~~its~~ the retailer’s ownership.

12 **SECTION 3.** 101.16 (3g) (a) of the statutes is amended to read:

13 101.16 (3g) (a) No ~~retail supplier~~ retailer may distribute liquefied petroleum
14 gas without holding a license issued by the department. The department, subject to
15 s. 101.02 (20) and (21), shall issue a license to be a ~~retail supplier~~ retailer upon
16 receiving the fee established under s. 101.19 (1g) (L) or (1m) and upon the retailer’s

1 obtaining ~~proof of financial responsibility~~ commercial general liability insurance as
2 required under sub. (3r) (c). The term of the license shall be set by the department,
3 not to exceed 2 years.

4 **SECTION 4.** 101.16 (3g) (b) of the statutes is amended to read:

5 101.16 (3g) (b) The department shall publish an annual list of all ~~retail~~
6 ~~suppliers~~ retailers holding valid licenses under par. (a).

7 **SECTION 5.** 101.16 (3r) (title) of the statutes is repealed and recreated to read:

8 101.16 (3r) (title) COMMERCIAL GENERAL LIABILITY INSURANCE.

9 **SECTION 6.** 101.16 (3r) (a) of the statutes is amended to read:

10 101.16 (3r) (a) Except as provided in par. (b), a ~~retail supplier~~ retailer shall
11 maintain ~~proof of financial responsibility~~ commercial general liability insurance in
12 the amount of \$1,000,000 per occurrence with an annual aggregate of \$2,000,000 for
13 compensating 3rd parties for bodily injury and property damages for incidents
14 associated with the release of liquefied petroleum gas.

15 **SECTION 7.** 101.16 (3r) (b) of the statutes is amended to read:

16 101.16 (3r) (b) A ~~retail supplier~~ retailer who only fills department of
17 transportation cylinders or who only fills containers for engine and recreational
18 vehicle fueling systems shall maintain ~~proof of financial responsibility~~ commercial
19 general liability insurance in the amount of \$500,000 per occurrence with an annual
20 aggregate of \$1,000,000 for compensating 3rd parties for bodily injury and property
21 damages for incidents associated with the release of liquefied petroleum gas.

22 **SECTION 8.** 101.16 (3r) (c) (intro.) and 3. of the statutes are consolidated,
23 renumbered 101.16 (3r) (c) and amended to read:

24 101.16 (3r) (c) A ~~retail supplier~~ retailer may ~~obtain any of the following to prove~~
25 ~~financial responsibility as required~~ meet the insurance requirement under par. (a)

1 or (b): ~~3. Commercial~~ by obtaining commercial general liability insurance as an
2 endorsement to an existing policy or as a separate policy from an insurer, or a risk
3 retention group, that is licensed to transact the business of insurance in this state
4 or that is eligible to provide insurance as a surplus lines insurer in one or more states.

5 **SECTION 9.** 101.16 (3r) (c) 1. of the statutes is repealed.

6 **SECTION 10.** 101.16 (3r) (c) 2. of the statutes is repealed.

7 **SECTION 11.** 101.16 (3r) (d) of the statutes is amended to read:

8 101.16 (3r) (d) A ~~retail supplier~~ retailer who fails to maintain ~~proof of financial~~
9 ~~responsibility~~ commercial general liability insurance as required under par. (a) or
10 (b), may not distribute liquefied petroleum gas at retail until ~~such proof~~ the
11 insurance is obtained.

12 **SECTION 12.** 101.16 (3r) (e) of the statutes is amended to read:

13 101.16 (3r) (e) Each ~~retail supplier~~ retailer shall file with the department proof
14 of ~~financial responsibility~~ commercial general liability insurance coverage as
15 required under this subsection ~~with the~~. The department shall maintain a list on the
16 department's Internet site that contains the names of each retailer licensed under
17 this section and the status of the retailer's commercial general liability insurance
18 coverage.

19 **SECTION 13.** 101.16 (3r) (f) of the statutes is amended to read:

20 101.16 (3r) (f) A 3rd party that issues ~~a surety bond, a letter of credit, or~~
21 commercial general liability insurance to a ~~retail supplier~~ retailer for purposes of
22 this subsection shall provide written notice to the ~~retail supplier~~ retailer and to the
23 department at least 60 days before canceling, revoking, suspending, or failing to
24 renew the ~~bond, letter, or insurance.~~

25 **SECTION 14.** 101.16 (3r) (g) of the statutes is amended to read:

1 101.16 (3r) (g) A ~~retail supplier that~~ retailer who cancels or fails to renew ~~a~~
2 surety bond, a letter of credit, or commercial general liability insurance shall notify
3 the department at least 60 days before cancelling or failing to renew the ~~bond, letter,~~
4 or insurance. Upon receipt of the notice, the department shall revoke the ~~retail~~
5 supplier's retailer's license issued under sub. (3g).

6 **SECTION 15.** 101.16 (3r) (h) of the statutes is repealed.

7 **SECTION 16.** 101.16 (4) (b) 1. of the statutes is amended to read:

8 101.16 (4) (b) 1. A person who owns, leases, or uses a propane gas system and
9 who is a customer of a ~~retail supplier~~ retailer shall notify the ~~retail supplier~~ retailer
10 of propane gas for the propane gas system of any interruption in the operation of the
11 propane gas system due to the replacement, modification, repair, or servicing of the
12 propane gas system by any person other than the ~~retail supplier~~ retailer. The
13 customer shall provide the notice at least 7 days in advance of the interruption in the
14 operation of the propane gas system, except as provided in subd. 2. The ~~retail~~
15 ~~supplier~~ retailer, or the person replacing, modifying, repairing, or servicing the
16 propane gas system, shall perform a check for leaks or other defects in the propane
17 gas system before placing the propane gas system back into operation in the manner
18 required by rule.

19 **SECTION 17.** 101.16 (4) (b) 2. of the statutes is amended to read:

20 101.16 (4) (b) 2. If the interruption of a propane gas system subject to subd. 1.
21 is due to emergency repair or servicing, the customer shall provide the notice to the
22 ~~retail supplier~~ retailer as soon as possible and no later than 24 hours after the repair
23 or servicing is completed.

24 **SECTION 18.** 101.16 (4) (c) (intro.), 1. and 2. of the statutes are amended to read:

1 101.16 (4) (c) (intro.) Each ~~retail-supplier~~ retailer filling a container that is part
2 of a propane gas system shall provide written notice to each customer subject to par.
3 (b) of the customer's duty under par. (b) before the ~~retail-supplier's~~ retailer's first
4 delivery of propane gas to that customer and shall provide subsequent notices on an
5 annual basis. The notice shall include all of the following information concerning the
6 duty to notify under par. (b):

7 1. The name, address, and telephone number of the ~~retail-supplier~~ retailer.

8 2. The purpose of giving the notification to the ~~retail-supplier~~ retailer.

9 **SECTION 19.** 101.16 (5) (b) of the statutes is amended to read:

10 101.16 (5) (b) Except as provided in par. (c), any ~~retail-supplier~~ retailer who
11 violates sub. (3g) or (3r) shall forfeit not less than \$500 and not more than \$1,000 for
12 the first offense and not less than \$2,000 ~~but~~ and not more than \$5,000 for each
13 subsequent offense.

14 **SECTION 20.** 101.16 (5) (c) of the statutes is amended to read:

15 101.16 (5) (c) Any ~~retail-supplier~~ retailer who violates sub. (3g) or (3r) shall
16 forfeit not less than \$200 and not more than \$400 for the first offense and not less
17 than \$800 ~~but~~ and not more than \$2,000 for each subsequent offense if the ~~retail~~
18 ~~supplier~~ retailer is one of the following:

19 1. A ~~retail-supplier~~ retailer who only fills department of transportation
20 cylinders.

21 2. A ~~retail-supplier~~ retailer who only fills containers for engine and recreational
22 vehicle fueling systems.

23 **SECTION 21.** 101.16 (5) (cm) of the statutes is amended to read:

24 101.16 (5) (cm) Except as provided in par. (cn), any ~~retail-supplier~~ retailer who
25 intentionally violates sub. (3g) or (3r) shall be imprisoned not less than 30 days nor

1 ~~and not~~ more than 6 months or shall be fined not less than \$500 ~~nor~~ and not more
2 than \$1,000 for the first offense and not less than \$2,000 ~~nor~~ and not more than
3 \$5,000 for each subsequent offense.

4 **SECTION 22.** 101.16 (5) (cn) of the statutes is amended to read:

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

11 **SECTION 23.** 101.16 (5) (d) of the statutes is amended to read:

12 101.16 (5) (d) If a ~~retail-supplier~~ retailer is found in violation of sub. (3g) or (3r),
13 the court shall require that the ~~retail-supplier~~ retailer cease distributing liquefied
14 petroleum gas at retail until the ~~retail-supplier~~ retailer is issued the license required
15 under sub. (3g).

16 **SECTION 24.** 101.16 (5m) (a) of the statutes is amended to read:

17 101.16 (5m) (a) Any ~~retail-supplier~~ retailer who is licensed under sub. (3g) and
18 who suffers damages caused by the filling of a container that is not a department of
19 transportation cylinder by another ~~retail-supplier~~ retailer who is not so licensed may
20 bring an action against the unlicensed ~~retail-supplier~~ retailer to do any of the
21 following:

22 1. Enjoin the unlicensed ~~retail-supplier~~ retailer from distributing liquefied
23 petroleum gas at retail until the ~~retail-supplier~~ retailer receives the required license.

Parisi, Lori

From: Kovach, Robert
Sent: Thursday, January 07, 2016 4:02 PM
To: LRB.Legal
Subject: Draft Review: LRB -3776/1

Please Jacket LRB -3776/1 for the SENATE.