2015 SENATE BILL 547

January 11, 2016 – Introduced by Senators LASEE and NASS, cosponsored by Representatives HEATON, KULP, BALLWEG, KREMER, CZAJA, E. BROOKS, T. LARSON, THIESFELDT, EDMING and RODRIGUEZ. Referred to Committee on Insurance, Housing, and Trade.

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

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

101.16 (1) (d) “Retail supplier Retailer” 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 Retailer” does not include a person who fills such containers
with liquefied petroleum gas for the person’s own use.

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

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

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

101.16 (3g) (a) No retail supplier retailer 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 retailer upon
receiving the fee established under s. 101.19 (1g) (L) or (1m) and upon the retailer’s
obtaining proof of financial responsibility commercial general liability insurance as
required under sub. (3r) (c). The term of the license shall be set by the department, not to exceed 2 years.

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

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

**SECTION 5.** 101.16 (3r) (title) of the statutes is repealed and recreated to read:

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

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

101.16 (3r) (a) Except as provided in par. (b), a retail supplier retailer shall maintain proof of financial responsibility commercial general 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.

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

101.16 (3r) (b) A retail supplier retailer 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 commercial general 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.

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

101.16 (3r) (c) A retail supplier retailer may obtain any of the following to prove financial responsibility as required meet the insurance requirement under par. (a) or (b): 3. Commercial by obtaining 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.

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

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

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

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

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

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

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

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

SECTION 14. 101.16 (3r) (g) of the statutes is amended to read:
101.16 (3r) (g) A retail supplier that retailer who cancels or fails to renew a surety bond, a letter of credit, or commercial 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 retailer’s license issued under sub. (3g).

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

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

101.16 (4) (b) 1. A person who owns, leases, or uses a propane gas system and who is a customer of a retail supplier retailer shall notify the retail supplier retailer 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 retailer. 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 retailer, 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.

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

101.16 (4) (b) 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 retailer as soon as possible and no later than 24 hours after the repair or servicing is completed.

SECTION 18. 101.16 (4) (c) (intro.), 1. and 2. of the statutes are amended to read:
101.16 (4) (c) (intro.) Each retail supplier retailer 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 retailer’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 retailer.
2. The purpose of giving the notification to the retail supplier retailer.

**SECTION 19.** 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.

**SECTION 20.** 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.

**SECTION 21.** 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.

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

101.16 (5) (cn) Any retail supplier retailer 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
and not more than 6 months or shall be fined not less than $200 nor and not more
than $400 for the first offense and not less than $800 nor and not more than $2,000
for each subsequent offense.

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

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

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

101.16 (5m) (a) Any retail supplier retailer 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 retailer who is not so licensed may
bring an action against the unlicensed retail supplier retailer to do any of the
following:

1. Enjoin the unlicensed retail supplier retailer from distributing liquefied
petroleum gas at retail until the retail supplier retailer 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 retailer is not licensed under sub. (3g).

**SECTION 25.** 101.16 (5m) (b) of the statutes is amended to read:

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

**SECTION 26.** 101.19 (1g) (L) of the statutes is amended to read:

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

**SECTION 27.** 101.19 (1m) of the statutes is amended to read:

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

**SECTION 28.** 182.0175 (1m) (e) 2. of the statutes is amended to read:

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

**SECTION 29. Effective date.**

(1) This act takes effect on the first day of the 7th month beginning after publication.