

FIRST REGULAR SESSION

HOUSE BILL NO. 553

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RECTOR.

Read 1st time February 15, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1485L.011

AN ACT

To repeal section 323.060, RSMo, and to enact in lieu thereof two new sections relating to liquefied petroleum gases.

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

Section A. Section 323.060, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 323.060 and 323.075, to read as follows:

323.060. 1. No person 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.

2. 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.

3. 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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 damages for injury to persons or property that result from any occurrence caused by the
18 installation, modification, repair, or servicing of equipment and appliances for use with liquefied
19 petroleum gas by any other person unless such registered person had received written notification
20 or had other actual knowledge of such installation, modification, repair, or servicing of
21 equipment and appliances and failed to inspect such installation, modification, repair, or
22 servicing of equipment and appliances within thirty days after receipt of such notice or actual
23 knowledge.

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

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

28 **6. Persons who only sell liquefied petroleum gas in approved containers having a**
29 **capacity of fifty pounds of propane or less that have been filled by another person**
30 **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
2 **demonstrate financial responsibility for compensating third parties for bodily injury and**
3 **property damage caused by the release of liquefied petroleum gas. The minimum amount**
4 **of financial responsibility shall be one million dollars per occurrence with an annual**
5 **aggregate of two million dollars.**

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

9 **3. A person may demonstrate financial responsibility by self insurance if financial**
10 **statements for the latest completed financial reporting year independently audited by a**
11 **certified public accountant reflect a net worth of at least ten million dollars. Such audit**
12 **may not include an adverse auditor's opinion, a disclaimer of opinion, or a going concern**
13 **qualification. At the time of the original application and thereafter annually within one**
14 **hundred twenty days after the close of each financial reporting year, the chief financial**
15 **officer of the registrant shall certify in writing that the registrant meets the requirements**
16 **of this subsection. The registrant's financial statements for the preceding three years shall**
17 **be made available upon request for examination and copying by the department of**
18 **agriculture.**

19 **4. A registrant may demonstrate financial responsibility by obtaining liability**
20 **insurance in the required amounts as an endorsement to an existing policy or as a separate**
21 **policy issued by an insurance company authorized by the department of insurance to**
22 **transact the business of insurance in the state of Missouri. The endorsement or policy shall**

23 include a requirement that the insurance company deliver a copy of any final notice of
24 cancellation to the department of agriculture at the same time such a notice is provided to
25 the insured. A copy of the certificate of insurance evidencing such coverage shall
26 accompany any original application and shall thereafter be filed annually with the
27 department of agriculture. The original insurance policy, any relevant endorsements, and
28 the certificate of insurance must be made available upon request for examination and
29 copying by the department of agriculture.

30 **5. A person who is unable to demonstrate the financial responsibility required by**
31 **this section shall be prohibited from engaging in the businesses described in section 323.060**
32 **until proof of financial responsibility is filed with the department of agriculture as set forth**
33 **in subsection 3 or 4 of this section.**

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