



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4190/1
KRP:amn

2015 ASSEMBLY BILL 698

January 13, 2016 - Introduced by Representatives HEATON, KULP, BALLWEG, KREMER, CZAJA, E. BROOKS, T. LARSON, THIESFELDT, EDMING and RODRIGUEZ, cosponsored by Senators LASEE and NASS. Referred to Committee on Energy and Utilities.

AUTHORS SUBJECT TO CHANGE

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

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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:

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.

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
17 obtaining ~~proof of financial responsibility~~ commercial general liability insurance as

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1 required under sub. (3r) (c). The term of the license shall be set by the department,
2 not to exceed 2 years.

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

4 101.16 **(3g)** (b) The department shall publish an annual list of all ~~retail~~
5 ~~suppliers~~ retailers holding valid licenses under par. (a).

6 **SECTION 5.** 101.16 (3r) (title) of the statutes is repealed and recreated to read:

7 101.16 **(3r)** (title) COMMERCIAL GENERAL LIABILITY INSURANCE.

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

9 101.16 **(3r)** (a) Except as provided in par. (b), a ~~retail-supplier~~ retailer shall
10 maintain ~~proof of financial responsibility~~ commercial general liability insurance in
11 the amount of \$1,000,000 per occurrence with an annual aggregate of \$2,000,000 for
12 compensating 3rd parties for bodily injury and property damages for incidents
13 associated with the release of liquefied petroleum gas.

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

15 101.16 **(3r)** (b) A ~~retail-supplier~~ retailer who only fills department of
16 transportation cylinders or who only fills containers for engine and recreational
17 vehicle fueling systems shall maintain ~~proof of financial responsibility~~ commercial
18 general liability insurance in the amount of \$500,000 per occurrence with an annual
19 aggregate of \$1,000,000 for compensating 3rd parties for bodily injury and property
20 damages for incidents associated with the release of liquefied petroleum gas.

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

23 101.16 **(3r)** (c) A ~~retail-supplier~~ retailer may obtain any of the following to prove
24 ~~financial responsibility as required~~ meet the insurance requirement under par. (a)
25 or (b): ~~3. Commercial~~ by obtaining commercial general liability insurance as an

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

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

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

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

7 101.16 (3r) (d) A ~~retail supplier~~ retailer who fails to maintain ~~proof of financial~~
8 ~~responsibility~~ commercial general liability insurance as required under par. (a) or
9 (b), may not distribute liquefied petroleum gas at retail until such ~~proof the~~
10 insurance is obtained.

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

12 101.16 (3r) (e) Each ~~retail supplier~~ retailer shall file with the department proof
13 of ~~financial responsibility~~ commercial general liability insurance coverage as
14 required under this subsection ~~with the~~. The department shall maintain a list on the
15 department's Internet site that contains the names of each retailer licensed under
16 this section and the status of the retailer's commercial general liability insurance
17 coverage.

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

19 101.16 (3r) (f) A 3rd party that issues ~~a surety bond, a letter of credit, or~~
20 commercial general liability insurance to a ~~retail supplier~~ retailer for purposes of
21 this subsection shall provide written notice to the ~~retail supplier~~ retailer and to the
22 department at least 60 days before canceling, revoking, suspending, or failing to
23 renew the ~~bond, letter, or~~ insurance.

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

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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:

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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~~

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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.

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1 2. Receive monetary damages equal to 3 times the amount of any monetary loss
2 sustained or \$2,000, whichever is greater, multiplied by each day that the unlicensed
3 ~~supplier~~ retailer is not licensed under sub. (3g).

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

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

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

8 101.19 **(1g)** (L) Issuing licenses to ~~retail-suppliers~~ retailers, as defined in s.
9 101.16 (1) (d), of liquefied petroleum gas under s. 101.16 (3g), except as provided in
10 sub. (1m).

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

12 101.19 **(1m)** The department shall collect an annual fee of \$20 for issuing a
13 license under s. 101.16 (3g) to a ~~retail-supplier~~ retailer who only fills department of
14 transportation cylinders.

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

16 182.0175 **(1m)** (e) 2. The department of safety and professional services may
17 promulgate a rule that requires ~~retail-suppliers~~ retailers, as defined in s. 101.16 (1)
18 (d), of propane to inform their customers each year of the obligation of owners of
19 transmission facilities under this section.

20 **SECTION 29. Effective date.**

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

23

(END)