

State of Wisconsin



2015 Assembly Bill 698

Date of enactment: **March 30, 2016**

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2015 WISCONSIN ACT 327

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.

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

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication.”

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~~ 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~~. 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~~ 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.