

LEGISLATIVE BILL 137

Approved by the Governor February 13, 2001

Introduced by Natural Resources Committee: Schrock, 38, Chairperson;
Bromm, 23; Bruning, 3; Hudkins, 21; Jones, 43; Kremer, 34;
Preister, 5; Stuhr, 24

AN ACT relating to liquefied petroleum gas; to amend sections 57-501 to 57-506, Reissue Revised Statutes of Nebraska; to change provisions relating to cylinders and containers; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 57-501, Reissue Revised Statutes of Nebraska, is amended to read:

57-501. As used in sections 57-501 to 57-507, unless the context otherwise requires:

(1) Person ~~shall mean and include means and includes~~ any person, ~~persons,~~ firm, or corporation;

(2) Owner ~~shall mean and include means and includes~~ (a) any person who holds a written bill of sale or other instrument under which title to the container was transferred to such person, (b) any person who holds a paid or receipted invoice showing purchase and payment of such container, (c) any person whose name, initials, mark, or other identifying device has been plainly and legibly stamped or otherwise shown upon the surface of such container for a period of not less than one year prior to the final enactment and approval of sections 57-501 to 57-507, or (d) any manufacturer of a container who has not sold or transferred ownership thereof by written bill of sale or otherwise;

(3) Liquefied petroleum gas ~~shall mean and include means and includes~~ any material which is composed predominantly of hydrocarbons or mixtures of the same, such as propane, propylene, butanes (normal butane and isobutane), and butylenes; and

(4) Container means any vessel, including a cylinder or tank, used for storing of liquefied petroleum gas; and

(5) Cylinder means a container constructed in accordance with the United States Department of Transportation specifications in 49 C.F.R. as they exist on the effective date of this act. Cylinder shall mean a container used for liquefied petroleum gas constructed in accordance with Interstate Commerce Commission specifications and the capacity of which is not more than thirty water gallons or one hundred pounds of liquefied petroleum gas.

Sec. 2. Section 57-502, Reissue Revised Statutes of Nebraska, is amended to read:

57-502. No cylinder shall be filled or refilled with liquefied petroleum gas, or any other gas or compound, nor shall ~~such~~ a cylinder be bought, sold, offered for sale, given, taken, loaned, delivered, or permitted to be delivered or otherwise used, or trafficked in, unless such cylinder ~~shall have been subjected to a test by interior hydrostatic pressure in a waterjacket or other apparatus of suitable form approved by the Bureau of Explosives of the Interstate Commerce Commission within ten years from the date of its manufacture or within ten years after having been subjected to such test; PROVIDED, that without regard to the date of previous test, cylinders that show bad dents or other evidence of rough usage, or that are corroded locally to such extent as to indicate possible weakness, or that have lost as much as five percent of their official tare weight, must be retested before being again charged and shipped. After any retest, the actual tare weight for those cylinders passing the test may be recorded as their official tare weight~~ meets the requirements of the regulations of the United States Department of Transportation as they exist on the effective date of this act.

Sec. 3. Section 57-503, Reissue Revised Statutes of Nebraska, is amended to read:

57-503. While in transit, in storage, and ~~while~~ being moved into final utilization, all cylinders containing liquefied petroleum gas must have their valves protected as required by the regulations of the United States Department of Transportation on the effective date of this act. ~~by metal caps or a metal protection shield securely attached to the cylinder and of sufficient strength to protect the valves from injury.~~

Sec. 4. Section 57-504, Reissue Revised Statutes of Nebraska, is amended to read:

57-504. No person, except the owner thereof or persons authorized

in writing by ~~said~~ the owner so to do, shall fill or refill with liquefied petroleum gas, or any other gas or compound, a ~~liquefied petroleum gas container~~; or buy, sell, offer for sale, give, take, loan, deliver, or permit to be delivered, or otherwise use, dispose of, or traffic in a ~~liquefied petroleum gas container or containers~~ if such container ~~shall bear~~ bears upon the surface thereof in plainly legible characters the name, initials, mark, or other device of ~~said~~ the owner; nor shall any person, other than the owner of a ~~liquefied petroleum gas container~~ or a person authorized in writing by ~~said~~ the owner, ~~so to do~~, deface, erase, obliterate, cover up, or otherwise remove or conceal any such name, mark, initial, or device thereon. The ~~PROVIDED~~, ~~the person using any such cylinder container~~ may purchase the same at his or her option from the owner at a fair and reasonable market value, and after such purchase may purchase liquefied petroleum gas upon the open market.

Sec. 5. Section 57-505, Reissue Revised Statutes of Nebraska, is amended to read:

57-505. The use of a ~~liquefied petroleum gas cylinder~~, as defined in ~~subdivision (4) of section 57-501~~, container by any person other than the person whose name, mark, initial, or device ~~shall be or shall have~~ is or has been upon such ~~liquefied petroleum gas cylinder container~~, without written consent or purchase of such marked and distinguished ~~liquefied petroleum gas cylinder container~~, for the sale of liquefied petroleum gas or filling or refilling with liquefied petroleum gas, or the possession of such ~~liquefied petroleum gas cylinders container~~ by any person other than the person having his or her name, mark, initial, or other device thereon, without the consent of such owner, ~~shall and is hereby declared to be~~ is presumptive evidence of the unlawful use, filling or refilling, or trafficking in of such ~~liquefied petroleum gas cylinders container~~.

Sec. 6. Section 57-506, Reissue Revised Statutes of Nebraska, is amended to read:

57-506. Whenever any person, ~~or the president, secretary, treasurer, or other officer of any corporation mentioned in section 57-501, or a duly authorized agent who has personal knowledge of the facts,~~ shall make makes an oath in writing before any judge of the county court, that the party ~~so making such the~~ affidavit has reason to believe and does believe that any ~~liquefied petroleum gas cylinders, as defined by subdivision (4) of section 57-501, a container which is~~ marked with the name, initials, mark, or other device of ~~such owners, are the owner is~~ in the possession of or being used by or being filled or refilled by ~~any a~~ person whose name, initials, mark, or other device does not appear on ~~such cylinders, the container~~ and who is in the possession of, filling or refilling, or using ~~any such cylinders the container~~ without the consent of the owner, ~~of such name, initials, or trademark,~~ the judge may, when satisfied that there is reasonable cause, issue a search warrant and cause the premises designated to be searched for the purpose of discovering and obtaining the ~~same container~~. The judge may also cause the person who possesses the container to be brought before the judge and him or her ~~the person in whose possession such cylinders may be found and shall then~~ inquire into the circumstances of such possession. If ~~such the~~ judge finds that such person ~~has been~~ is guilty of a violation of sections 57-501 to 57-507, ~~he or she the judge~~ shall sentence as provided in section 57-507 and shall also award the possession of ~~property the container, including the contents, of the cylinders,~~ taken upon such search warrant, to the owner thereof.

Sec. 7. Original sections 57-501 to 57-506, Reissue Revised Statutes of Nebraska, are repealed.