

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 2164

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DATE	D-PG	OFFICIAL STATUS
03/03/2014	5921	Introduction and first reading Referred to Environment and Energy
03/10/2014		Comm report: To pass as amended and re-refer to Commerce

A bill for an act

relating to energy; regulating terms of sale and service and the discontinuance of service during the heating season with respect to residential propane customers; requiring registration of and reporting by propane distributors; proposing coding for new law in Minnesota Statutes, chapter 216B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[216B.0991] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 216B.0991 to 216B.0998, the terms defined in this section have the meanings given them.

Subd. 2. **Customer.** "Customer" means a person who purchases or agrees to pay consideration for propane for residential heating service.

Subd. 3. **Delinquent.** "Delinquent" means an account that is in arrears because a customer has failed to pay a valid bill or charge in full within 20 days of the postmark date of the bill or charge, or by a "due date" at least 20 days after mailing or delivery which must be written on the bill and which controls in the absence of a postmark.

Subd. 4. **Discontinuance or discontinue.** "Discontinuance" or "discontinue" means the refusal of a propane distributor to deliver propane to a customer previously receiving residential heating service from the propane distributor.

Subd. 5. **Heating season.** "Heating season" means the time period from October 15 through April 15.

Subd. 6. **LIHEAP.** "LIHEAP" means the low-income home energy assistance program.

Subd. 7. **Physician's certificate.** "Physician's certificate" means a written statement signed by a duly licensed medical or osteopathic physician certifying that a customer or a resident in the customer's household would face a specified immediate and serious

2.1 health hazard if propane delivery to that household were discontinued during the heating
2.2 season. The certificate is valid for 30 days or for the duration of the hazard specified in the
2.3 certificate, whichever is longer.

2.4 Subd. 8. **Propane distributor.** "Propane distributor" means a person who:

2.5 (1) sells propane at retail to customers; and

2.6 (2) received more than \$100,000 in payments from the LIHEAP program for
2.7 propane delivered during the previous heating season; or

2.8 (3) received less than \$100,000 in payments from the LIHEAP program for propane
2.9 delivered during the previous heating season, and meets one of the following conditions:

2.10 (i) markets propane under a single brand and the aggregate amount of payments
2.11 received from the LIHEAP program for propane delivered during the previous heating
2.12 season by all entities selling propane under that brand exceeds \$100,000;

2.13 (ii) is incorporated as a cooperative association under chapter 308A or 308B; or

2.14 (iii) operates a pipeline, rail or pipeline terminal, or bulk plant at which propane is
2.15 received.

2.16 For the purposes of this subdivision, "bulk plant" means an aboveground or underground
2.17 tank facility with a storage capacity of more than 1,000 gallons that dispenses propane
2.18 into cargo tanks for transportation and sale at another location.

2.19 Subd. 9. **Residential heating service.** "Residential heating service" means the
2.20 provision of the primary source of heat for the interior of a residential structure.

2.21 Sec. 2. **[216B.0992] PRICE AND FEE DISCLOSURE.**

2.22 A propane distributor must provide a document listing the current per-gallon price of
2.23 propane and all additional charges, fees, and discounts that pertain to residential heating
2.24 service. The document must be:

2.25 (1) prominently displayed at the propane distributor's place of business;

2.26 (2) made available to the general public upon request;

2.27 (3) posted on the propane distributor's Web site, if applicable; and

2.28 (4) provided to new customers before residential heating service is initiated.

2.29 Sec. 3. **[216B.0993] BUDGET PAYMENT PLAN.**

2.30 (a) A propane distributor must offer a reasonable and effective budget payment plan
2.31 to a customer whose payments for residential heating service are current, or who has
2.32 entered into and is complying with a contract with the propane distributor for residential
2.33 heating service, without regard to the length of time the customer has purchased propane
2.34 from the propane distributor.

3.1 (b) A budget payment plan must levelize a customer's estimated annual propane bill
3.2 by dividing it into 12 equal monthly payments. Any positive balance remaining at the end
3.3 of a year may, at the customer's discretion, be provided to the customer as a cash payment
3.4 or carried over as a credit on the customer's bill for the following year.

3.5 (c) A budget payment plan must be mutually acceptable to the propane distributor
3.6 and the customer, and must be based on the financial resources and circumstances of
3.7 the customer.

3.8 (d) A propane distributor must notify a customer on a budget payment plan within
3.9 30 days of a price or fee change that may affect the monthly amount due under the budget
3.10 payment plan by more than 20 percent.

3.11 **Sec. 4. [216B.0994] DELINQUENT ACCOUNT; PAYMENT AGREEMENT.**

3.12 (a) A customer whose account is delinquent must be given the opportunity by the
3.13 customer's propane distributor to enter into a mutually acceptable reasonable payment
3.14 agreement to pay the delinquent bill over time.

3.15 (b) In determining a mutually acceptable payment agreement, a customer and the
3.16 customer's propane distributor must consider at least the following factors:

3.17 (1) the amount that is delinquent;

3.18 (2) the customer's financial resources and circumstances;

3.19 (3) the reason the account became delinquent; and

3.20 (4) the customer's eligibility for LIHEAP and other emergency energy assistance
3.21 programs.

3.22 (c) A reasonable repayment agreement must have a term no less than six months.

3.23 (d) A reasonable payment agreement may not require a customer to pay more than
3.24 ten percent of the customer's monthly household income toward current and past propane
3.25 bills, unless the customer agrees to pay such an amount.

3.26 **Sec. 5. [216B.0995] DISCONTINUANCE OF SERVICE.**

3.27 Subdivision 1. **Grounds for discontinuance.** (a) A propane distributor may
3.28 discontinue residential heating service without the consent of the customer if:

3.29 (1) the customer's account is delinquent;

3.30 (2) a notice of discontinuance has been provided to the customer at least 14 days, but
3.31 not more than 20 days, prior to the date of discontinuance; and

3.32 (3) the customer has not entered into a payment agreement with the propane
3.33 distributor; or

4.1 (4) the customer has failed to pay two consecutive monthly payments under a
 4.2 payment agreement entered into with the propane distributor.

4.3 (b) A customer may not be discontinued if:

4.4 (1) the discontinuation would occur during the heating season and present an
 4.5 immediate and serious hazard to the health of an occupant of the dwelling, as set forth in a
 4.6 physician's certificate furnished to the propane distributor. Notice to the propane distributor
 4.7 by telephone or otherwise that the certificate will be forthcoming is considered equivalent
 4.8 to receipt of the certificate if the certificate is received within seven days of the notice; or

4.9 (2) the customer has not been given an opportunity to enter into a reasonable
 4.10 repayment agreement to pay the delinquent bill or, having entered into a repayment
 4.11 agreement, has complied with its terms.

4.12 (c) This subdivision shall not apply to any discontinuance of propane service made
 4.13 necessary for reasons of the immediate health or safety of the customer or the general public.

4.14 Subd. 2. **Discontinuance notice form.** (a) A discontinuance notice must contain
 4.15 all of the following information:

4.16 (1) the amount that is delinquent, the date and amount of the last payment made by the
 4.17 customer for propane, and the date and amount of the last propane delivery to the customer;

4.18 (2) a statement that propane delivery will be discontinued unless the customer pays
 4.19 the delinquency in full by a specified date;

4.20 (3) if the discontinuance is to occur during the heating season, a list, annually
 4.21 compiled by the Department of Commerce, of names, addresses, and telephone numbers
 4.22 of governmental and private agencies that may help customers pay their propane bills; and

4.23 (4) procedures for filing a complaint regarding the discontinuance with the Office of
 4.24 the Attorney General and the Department of Commerce; and

4.25 (5) any other information required by the commissioner.

4.26 (b) A copy of the discontinuance notice must be delivered to the customer and, if not
 4.27 the same person, the occupant of the dwelling that is the subject of the discontinuance.

4.28 **Sec. 6. [216B.0996] NONDISCRIMINATION.**

4.29 A propane distributor that offers customers payment and service options, including,
 4.30 but not limited to, prepurchase contracts, keep-fill delivery, and credit payments, must
 4.31 offer the same terms to all new and existing customers.

4.32 **Sec. 7. [216B.0997] TERMS OF SALE.**

4.33 Subdivision 1. **Minimum delivery.** (a) During the heating season, a propane
 4.34 distributor may not require a customer to purchase, per delivery, more than:

5.1 (1) 150 gallons of propane, if the customer's propane tank has a capacity below
5.2 500 gallons; or

5.3 (2) 300 gallons of propane, if the customer's propane tank has a capacity of 500
5.4 gallons or more.

5.5 (b) Except during the heating season, a propane distributor may not require a
5.6 customer to purchase, per delivery, more than the lesser of 250 gallons of propane or 35
5.7 percent of the capacity of the customer's propane tank.

5.8 (c) The purchase limits in this subdivision shall also apply to the initial delivery of
5.9 propane following installation of a customer's propane tank.

5.10 (d) A propane dealer may not charge an additional fee to a customer because the
5.11 customer has purchased propane in amounts allowed under this subdivision.

5.12 Subd. 2. **Cash sales.** (a) A propane distributor with an available supply of propane
5.13 must not refuse to sell propane to a customer who:

5.14 (1) pays the lawful price upon delivery in cash, by certified or cashier's check, or by
5.15 commercial money order or its equivalent; or

5.16 (2) receives energy assistance from LIHEAP or a governmental or private agency
5.17 that has funds available to pay for a delivery.

5.18 (b) A propane dealer must apply 75 percent of a cash payment made by a customer
5.19 whose account is delinquent toward the current propane delivery bill and 25 percent to
5.20 the delinquent bill until the delinquent amount owed is paid in full. The company must
5.21 deliver to the customer the quantity of gas purchased by 75 percent of the cash payment.

5.22 Subd. 3. **Delivery charge; additional fees.** (a) A propane distributor may not
5.23 charge a customer a delivery fee, except when the customer requests a delivery to be
5.24 made outside of the propane distributor's:

5.25 (1) normal business hours, as posted at the propane distributor's place of business or
5.26 on its Web site; or

5.27 (2) normally scheduled deliveries to the customer's geographical area.

5.28 (b) No propane distributor may charge an additional fee to a residential customer
5.29 for low or minimal usage.

5.30 Subd. 4. **LIHEAP participation and payments.** A propane distributor must make
5.31 available to its customers information regarding LIHEAP, including income eligibility and
5.32 contact information for organizations accepting LIHEAP applications, upon request and
5.33 with each bill and receipt for propane delivered to a customer. A propane distributor must
5.34 accept payments from LIHEAP, must deliver the full amount of propane and any related
5.35 cost or service paid for by LIHEAP funds, and must not require any minimum delivery fee
5.36 or security deposit from a customer receiving LIHEAP assistance.

6.1 Subd. 5. **Third-party credit disclosure.** A propane distributor must not make
6.2 known the names of past or present delinquent customers to other propane distributors,
6.3 except in the course of a routine credit check performed when a prospective customer
6.4 applies for credit privileges.

6.5 Subd. 6. **Security deposits.** During the heating season, a propane distributor
6.6 may not require the customer to pay a security deposit as a condition of service. At all
6.7 other times, a security deposit may not exceed the lesser of \$200 or five percent of the
6.8 customer's estimated annual heating bill.

6.9 **Sec. 8. [216B.0998] REGISTRATION; REPORTING.**

6.10 Subdivision 1. **Registration.** Annually by September 1, a propane distributor shall
6.11 register with the department on a form prescribed by the commissioner. A propane
6.12 distributor may not sell propane at retail in this state unless the propane distributor has
6.13 received a registration certificate from the commissioner.

6.14 Subd. 2. **Reporting.** (a) Annually by September 1, a propane distributor must
6.15 submit the following information to the commissioner:

6.16 (1) the amount of fees associated with propane delivery to a customer, including, but
6.17 not limited to, tank purchasing, leasing, installation, inspection, pump-out, and pick-up
6.18 fees, emergency and after-hours delivery fees, and meter service fees;

6.19 (2) a copy of the standard contract between the propane distributor and a customer;

6.20 (3) terms and conditions of payment and credit options made available to a customer,
6.21 including but not limited to prepurchase, fixed-price, and capped-price options, payment
6.22 agreements and budget payment plans, and price discounts; and

6.23 (4) the capacity of propane storage located on site at the propane distributor's
6.24 place of business, and the capacity of any other storage locations owned or leased by
6.25 the propane distributor.

6.26 (b) Beginning at the start of the heating season of 2014-2015, and continuing each
6.27 subsequent heating season, a propane distributor must submit to the commissioner each
6.28 week the average wholesale price the distributor paid for propane delivered that week, and
6.29 the average retail price per gallon charged by the propane distributor to a customer.

6.30 **Sec. 9. APPLICABILITY; REGISTRATION AND REPORTING**
6.31 **REQUIREMENTS.**

6.32 The initial registration and reporting required under section 8 must be submitted
6.33 on or before September 1, 2014.

7.1 Sec. 10. **EFFECTIVE DATE.**

7.2 Sections 1 to 9 are effective the day following final enactment.