

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	6050a	Comm report: To pass as amended and re-refer to Commerce
03/20/2014		Comm report: To pass as amended and re-refer to Finance

A bill for an act

1.1 relating to energy; regulating terms of sale and service and the discontinuance of
 1.2 service during the heating season with respect to residential propane customers;
 1.3 requiring registration of and reporting by propane distributors; providing
 1.4 additional regulatory authority to the commissioner of commerce regarding the
 1.5 propane industry; requiring notice of lack of propane supply by propane terminal
 1.6 operators; amending Minnesota Statutes 2012, sections 239.051, subdivision 29;
 1.7 239.785, by adding a subdivision; 325E.027; proposing coding for new law
 1.8 in Minnesota Statutes, chapter 216B.
 1.9

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

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

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

1.14 Subd. 2. **Customer.** "Customer" means a person who purchases or signs a contract
 1.15 to purchase propane from a propane distributor for residential heating.

1.16 Subd. 3. **Low-income customer.** "Low-income customer" means any customer
 1.17 whose household income is at or below 50 percent of the state median household income.

1.18 Subd. 4. **Delinquent.** "Delinquent" means a customer's account with a propane
 1.19 distributor that is in arrears because the customer has failed to pay a valid bill or charge in
 1.20 full within 20 days of its due date.

1.21 Subd. 5. **Discontinuance or discontinue.** "Discontinuance" or "discontinue" means
 1.22 the refusal of a propane distributor to deliver propane to a customer previously receiving
 1.23 residential heating service from the propane distributor.

1.24 Subd. 6. **Heating season.** "Heating season" means the time period from October
 1.25 15 through April 15.

2.1 Subd. 7. **LIHEAP.** "LIHEAP" means the low-income home energy assistance
2.2 program.

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

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

2.5 (2) received more than \$200,000 in payments from the LIHEAP program for
2.6 propane delivered during the previous heating season; or

2.7 (3) received less than \$200,000 in payments from the LIHEAP program for propane
2.8 delivered during the previous heating season, and meets one of the following conditions:

2.9 (i) markets propane under a single brand and the aggregate amount of payments
2.10 received from the LIHEAP program for propane delivered during the previous heating
2.11 season by all entities selling propane under that brand within the state exceeds \$200,000;

2.12 (ii) is organized as a cooperative association under chapter 308A or 308B; or

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

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

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

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

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

2.24 (1) made available to a person upon request;

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

2.26 (3) provided to a new customer before residential service is initiated.

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

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

2.33 (b) A budget payment plan must levelize a customer's estimated annual propane bill
2.34 by dividing it into 12 equal monthly payments.

3.1 (c) A propane distributor must notify a customer on a budget payment plan within
3.2 30 days of a price or fee change that may affect the monthly amount due under the budget
3.3 payment plan by more than 20 percent.

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

3.5 (a) A propane distributor must offer a reasonable payment agreement to a
3.6 low-income customer whose account is delinquent that allows the customer to pay the
3.7 delinquent bill over time. The propane distributor and the customer may negotiate the
3.8 terms of a payment agreement to arrive at a mutually acceptable agreement. A reasonable
3.9 payment agreement must consider at least the following factors:

3.10 (1) the amount that is delinquent;

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

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

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

3.15 (b) A reasonable payment agreement must have a term no less than six months.

3.16 (c) A reasonable payment agreement may not require a customer to pay more than
3.17 ten percent of the customer's monthly household income toward current and past propane
3.18 bills, unless the customer agrees to pay more.

3.19 (d) A customer who has entered into a payment agreement with a propane distributor
3.20 may request a modification of the terms of the payment agreement if the customer's
3.21 financial circumstances have changed or the customer is unable to make timely payments.

3.22 **Sec. 5. [216B.0995] SERVICE DISCONTINUANCE.**

3.23 Subdivision 1. **During heating season.** A propane distributor may not discontinue
3.24 residential propane heating service during the heating season if all of the following
3.25 conditions are met:

3.26 (1) the customer is a low-income customer. A propane distributor may:

3.27 (i) verify income on forms it provides; or

3.28 (ii) obtain verification of income from the local energy assistance provider. A
3.29 customer is deemed to meet the income requirements of this clause if the customer
3.30 receives any form of public assistance, including energy assistance that uses an income
3.31 eligibility threshold set at or below 50 percent of the state median household income; and

3.32 (2) a customer enters into and makes reasonably timely payments under a payment
3.33 agreement that considers the financial resources of the household.

4.1 Subd. 2. **Notice.** A propane distributor must, between August 15 and October 15
4.2 each year, notify all residential customers of the provisions of this subdivision.

4.3 Subd. 3. **Refusal to deliver.** (a) A propane distributor may refuse to deliver propane
4.4 to a customer if the customer's account is delinquent and the customer has failed to pay
4.5 two consecutive monthly payments under a payment agreement entered into with the
4.6 propane distributor.

4.7 (b) A refusal to deliver during the heating season must not occur on a weekend,
4.8 holiday, or the day before a holiday or when the propane distributor offices are closed.

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

4.11 Subd. 4. **Discontinuation notice.** Before discontinuing propane delivery service
4.12 during the heating season, a propane distributor must provide a notice of discontinuance
4.13 at least 14 days, but not more than 20 days, prior to the date of discontinuance. The
4.14 discontinuance notice must include the following information to a customer:

4.15 (1) a notice of proposed supply refusal, including the delinquent amount and the date
4.16 on which propane delivery will be discontinued unless the customer pays the delinquency
4.17 in full by a specified date;

4.18 (2) a statement explaining the customer's rights and responsibilities;

4.19 (3) a list of local energy assistance providers; and

4.20 (4) a statement explaining available time payment plans and other opportunities to
4.21 secure continued supply of propane.

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

4.23 A propane distributor that offers customers payment and service options, including,
4.24 but not limited to, prepurchase contracts, keep-fill delivery, and credit payments, must
4.25 offer the same terms and conditions to all new and existing customers, including residents
4.26 of mobile home parks.

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

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

4.30 (1) 150 gallons of propane, if the customer's propane tank has a capacity below
4.31 500 gallons; or

4.32 (2) 200 gallons of propane, if the customer's propane tank has a capacity of 500
4.33 gallons or more.

5.1 (b) At times other than during the heating season, a propane distributor may not
5.2 require a customer to purchase, per delivery, more than the lesser of 250 gallons of
5.3 propane or 35 percent of the capacity of the customer's propane tank.

5.4 (c) The purchase limits in this subdivision apply to all deliveries including the initial
5.5 delivery of propane following installation of a customer's propane tank.

5.6 (d) A propane dealer may not charge an additional minimum delivery fee to
5.7 a customer because the customer has purchased propane in the minimum amounts
5.8 allowed under this subdivision, unless the customer is making payments under a payment
5.9 agreement or budget plan and the charge for the minimum delivery fee is included in the
5.10 payment agreement or budget plan. If a customer is not under a payment agreement or
5.11 budget plan, a propane dealer must allow the customer to pay for any minimum service
5.12 delivery fee in four monthly installments.

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

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

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

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

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

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

5.28 (2) same day or emergency delivery service.

5.29 Subd. 4. **Minimal usage charge.** No propane distributor may charge an additional
5.30 fee to a residential customer for metered gas minimum usage or minimum volume
5.31 requirement propane usage or minimal usage.

5.32 Subd. 5. **LIHEAP participation and payments.** A propane distributor must make
5.33 available to its customers information regarding LIHEAP, including income eligibility
5.34 and contact information for organizations accepting LIHEAP applications, upon request
5.35 and with each bill and receipt for propane delivered to a customer. A propane distributor

6.1 must accept payments from LIHEAP and must deliver the full amount of propane and any
6.2 related cost or service paid for by LIHEAP funds.

6.3 Subd. 6. **Third-party credit disclosure.** A propane distributor must not make
6.4 known the names of past or present delinquent customers to other propane distributors,
6.5 except in the course of a routine credit check performed when a prospective customer
6.6 applies for credit privileges.

6.7 Subd. 7. **Security deposits.** During the heating season, a propane distributor may
6.8 not require a customer eligible to receive heating assistance under LIHEAP to pay a
6.9 security deposit as a condition of service. At all other times, a security deposit may not
6.10 exceed the lesser of \$200 or five percent of the customer's estimated annual heating bill.

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

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

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

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

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

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

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

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

6.33 **EFFECTIVE DATE.** This section is effective the day following final enactment and
6.34 the initial registration and reporting required must be submitted on or before September
6.35 1, 2014.

7.1 Sec. 9. Minnesota Statutes 2012, section 239.051, subdivision 29, is amended to read:

7.2 Subd. 29. **Refinery, terminal.** "Refinery" or "terminal" means a liquefied
7.3 petroleum gas refinery or a petroleum refinery, pipeline terminal, river terminal, storage
7.4 facility, or other point of origin where liquefied petroleum gas or petroleum products are
7.5 manufactured, or imported by rail, truck, barge, or pipe; and held, stored, transferred,
7.6 offered for distribution, distributed, offered for sale, or sold. For the purpose of restricting
7.7 petroleum product blending, this definition includes all refineries and terminals within and
7.8 outside of Minnesota, but does not include a licensed distributor's bulk storage facility that
7.9 is used to store petroleum products for which the petroleum inspection fee charged under
7.10 this chapter is either not due or has been paid.

7.11 Sec. 10. Minnesota Statutes 2012, section 239.785, is amended by adding a subdivision
7.12 to read:

7.13 Subd. 7. **Notification of product unavailability; terminal operators.** A person
7.14 who operates a terminal where liquefied petroleum gas is loaded into transport trucks for
7.15 subsequent distribution, shall notify the commissioner when liquefied petroleum gas is
7.16 physically not available for sale to licensed distributors.

7.17 Sec. 11. Minnesota Statutes 2012, section 325E.027, is amended to read:

7.18 **325E.027 DISCRIMINATION PROHIBITION.**

7.19 (a) No dealer or distributor of liquid propane gas or number 1 or number 2 fuel oil
7.20 who has signed a low-income home energy assistance program vendor agreement with the
7.21 Department of Commerce may refuse to deliver liquid propane gas or number 1 or number
7.22 2 fuel oil to any person located within the dealer's or distributor's normal delivery area
7.23 who receives direct grants under the low-income home energy assistance program if:

7.24 (1) the person has requested delivery;

7.25 (2) the dealer or distributor has product available;

7.26 (3) the person requesting delivery is capable of making full payment at the time of
7.27 delivery; and

7.28 (4) the person is not in arrears regarding any previous fuel purchase from that dealer
7.29 or distributor.

7.30 (b) A dealer or distributor making delivery to a person receiving direct grants
7.31 under the low-income home energy assistance program may not charge that person any
7.32 additional costs or fees that would not be charged to any other customer and must make
7.33 available to that person any discount program on the same basis as the dealer or distributor
7.34 makes available to any other customer.

8.1 (c) The commissioner of commerce may enforce this section using any of the
8.2 authority granted to the commissioner under section 45.027.

8.3 Sec. 12. **EFFECTIVE DATE.**

8.4 Sections 1 to 11 are effective the day following final enactment.