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SENATE BILL NO. 1298

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on January 23, 2023)

(Patron Prior to Substitute—Senator Deeds)

A BILL to amend and reenact §§ 18.2-493, 18.2-494, and 18.2-495 of the Code of Virginia, relating to filling, refilling, or otherwise delivering of liquefied petroleum gas during a qualifying emergency.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-493, 18.2-494, and 18.2-495 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-493. Definitions.

As used in this article, unless the text indicates otherwise context requires a different meaning:

(a) "Person" shall mean any person, firm or corporation.

(b) "Owner" shall mean any person who holds a written bill of sale under which title or ownership to a container was transferred to such person, or any manufacturer of a container who has not sold or transferred ownership thereof by written bill of sale.

(c) "Liquefied petroleum gas" shall mean means any material which that is composed predominately of any of the following hydrocarbons or mixtures of the same: propane, propylene, butanes (normal butane and isobutane) and butylenes.

"Owner" means any person who holds a written bill of sale under which title or ownership to a container was transferred to such person, or any manufacturer of a container who has not sold or transferred ownership thereof by written bill of sale.

"Person" means any person, firm or corporation.

"Qualifying emergency" means (i) a state of emergency as declared by the Governor pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44; (ii) a local emergency as declared by the local director of emergency management with the consent of the governing body of the political subdivision pursuant to § 44-146.21; (iii) a state of emergency as declared by the President of the United States; (iv) when severe weather or other similar circumstances exist that may result in a person being placed in imminent danger of death or injury or may result in a building or its fixtures being at risk of significant damage due to lack of heat caused by the lack of sufficient liquefied petroleum gas to produce such heat; or (v) when a waiver from delivery limitations affecting the delivery of liquefied petroleum gas has been ordered.

§ 18.2-494. Unlawful use of, filling or refilling, or trafficking in containers.

A. Unless a qualifying emergency is in effect, no person except the owner thereof or person authorized in writing by the owner 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 the container bears upon the surface thereof in plainly legible characters the name, initials, mark, or other device of the owner; nor shall any person other than the owner of a liquefied petroleum gas container or a person authorized in writing by the owner deface, erase, obliterate, cover up, or otherwise remove or conceal any name, mark, initial, or device thereon.

B. When a qualifying emergency is in effect, a residential customer who can demonstrate that he has less than a 24-hour supply of liquefied petroleum gas shall first make a good faith effort to procure delivery of liquefied petroleum gas from the owner of the liquefied petroleum gas container. If the owner of the liquefied petroleum gas container or other person authorized in writing by the owner is unable to make a scheduled delivery or fulfill the residential customer's good faith request within 24 hours, the customer may have an emergency supplier fill, refill, or otherwise deliver liquefied petroleum gas into the customer's liquefied petroleum gas container, provided that the emergency supplier ensures that such liquefied petroleum gas container, and the devices and pipelines operated in connection with such container, have been inspected and certified as required by law. Within five business days of filling, refilling, or otherwise delivering liquefied petroleum gas to the customer's container, the emergency supplier shall give written notice to the owner of the liquefied petroleum gas container that includes (i) the name and address of the customer; (ii) the date of the filling, refilling, or delivery; and (iii) the amount of liquefied petroleum gas that was placed in the customer's container. The emergency supplier shall assume all responsibility and liability for injury to persons or property related to the emergency refilling of the liquefied petroleum gas container.

When an emergency supplier delivers liquefied petroleum gas to a residential customer pursuant to this subsection, neither such emergency supplier nor the owner of the liquefied petroleum gas container may charge any penalty or fee in addition to the filling, refilling, or delivery fees that are usually

60 *charged to other customers in the course of business during a nonemergency.*

61 **§ 18.2-495. Presumptive evidence.**

62 The use of a liquefied petroleum gas container or containers by any person other than the person
63 whose name, mark, initial, or device is on the liquefied petroleum gas container or containers, without
64 written consent, or purchase of the marked and distinguished liquefied petroleum gas container for the
65 sale of liquefied petroleum gas or filling or refilling with liquefied petroleum gas, or possession of the
66 liquefied petroleum gas containers by any person other than the person having his name, mark, initial, or
67 other device thereon, without the written consent of such owner, is presumptive evidence of the unlawful
68 use of, filling or refilling of, or trafficking in ~~of~~ such liquefied petroleum gas containers.

69 *The provisions of this section shall not apply to the filling, refilling, or otherwise delivering of*
70 *liquefied petroleum gas into a liquefied petroleum gas container when such filling, refilling, or otherwise*
71 *delivering of liquefied petroleum gas is done in accordance with subsection B of § 18.2-494.*