MISSISSIPPI LEGISLATURE REGULAR SESSION 2007

By: Senator(s) Cuevas

To: Judiciary, Division A

# SENATE BILL NO. 2758

AN ACT TO AMEND SECTION 75-57-47, MISSISSIPPI CODE OF 1972, TO PROVIDE CERTAIN LIMITATIONS OF LIABILITY TO PERSONS OTHER THAN CONSUMERS WHO WORK WITH LIQUEFIED PETROLEUM GAS; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 75-57-47, Mississippi Code of 1972, is amended as follows:

75-57-47. (1) From and after the effective date of this chapter, any installer or other person who shall install, connect, alter, extend, change or repair any liquefied compressed gas or compressed natural gas system, container or appliance whatsoever, or who shall install, connect, change, extend, alter or repair any piping or fitting connected with or attached to any liquefied compressed gas or compressed natural gas container, system or appliance shall, within fifteen (15) days after the completion thereof, give notice to the State Liquefied Compressed Gas Board, in writing, on forms to be provided by the State Liquefied Compressed Gas Board, that such installation, connection, alteration, extension, change or repair has been made, which notice shall give full details with reference thereto, and shall give the name of the person at whose order same was made, and the name of the installer, as provided in this chapter, under whose supervision the installation, alteration, etc., was made and the address of the premises upon which same was made. Any person who shall install, connect, alter, extend, change or repair any liquefied compressed gas or compressed natural gas system, container or appliance, or any piping or fitting connected or attached thereto, without giving notice to the State Liquefied

Compressed Gas Board as provided herein shall be subject to the sanctions set out in this chapter.

(2) Upon receiving notice of any installation of a liquefied compressed gas system or natural gas fueling system other than a liquefied petroleum gas carburetion system, it shall be at the discretion of the Commissioner of Insurance to cause same to be inspected, and if he or she approves same after such inspection, he or she shall leave upon such premises a written certificate of approval. Upon receiving notice of any connection, alteration, extension, change or repair to any system required to be inspected at the time of installation under the provisions of this subsection, the Commissioner of Insurance may cause the system to be inspected if he or she believes that sufficient change or repair has been made so as to alter the system from its original installation.

If, after such inspection, the inspector finds that the installation or repair has not been properly made, he or she shall report such fact to the distributor or installer making the installation and request that corrections be made within seventy-two (72) hours after the time of such inspection, if the defects are such that can be corrected without the necessity of condemning the entire system. Any distributor or installer who fails or refuses to make the corrections after requested so to do by the inspector, after a hearing before the State Liquefied Compressed Gas Board, may have his authority or certificate of compliance suspended or revoked.

Installers, as defined in this chapter, are hereby authorized to issue temporary certificates of approval for use before inspection by the Commissioner of Insurance, but no certificate issued by an installer shall be valid for a period longer than one hundred twenty (120) days from date of completion or alteration, repair or installation covered by said certificate. The provisions of this paragraph shall not relieve the dealer, or

other person, from the liability of having such installation inspected by the Commissioner of Insurance, as provided in this chapter.

All certificates of approval and permits issued by liquefied gas inspectors under the terms of this section shall be executed in duplicate, and the copy thereof shall be filed and preserved in the office of the State Liquefied Compressed Gas Board for not less than three (3) years from the date thereof.

(3) All liquefied petroleum gas carburetion systems and natural gas carburetion systems shall be installed by an installer, or automobile manufacturer, or be inspected by a representative of the State Liquefied Compressed Gas Board or Commissioner of Insurance when not installed by such qualified installer or manufacturer.

All liquefied petroleum or natural gas carburetion systems installed on vehicles, including school buses, used in public transportation shall be inspected by a field inspector. The State Liquefied Compressed Gas Board may cause to be inspected any installations of liquefied petroleum gas or natural gas carburetion systems on any other type vehicles as they deem necessary. All such installations shall comply with the rules and regulations promulgated by the State Liquefied Compressed Gas Board.

No person may, for a fee, install liquefied petroleum or natural gas carburetion systems unless such person holds a license as an installer issued by the State Liquefied Compressed Gas Board.

Any person who operates a vehicle on which a liquefied petroleum or natural gas carburetion system has been installed by a person other than an installer shall apply to the State Liquefied Compressed Gas Board for inspection of such installation within fifteen (15) days of such installation. No distributor of liquefied petroleum or natural gas, or any other person, shall

fill or cause to be filled any such system which has not been inspected as required by this chapter.

Any person who violates any of the provisions of this subsection shall be subject to the penalties provided in this chapter.

(4) No distributor of liquefied compressed gas, or other person, shall fill, cause to be filled, or permit to be filled, any container or system unless the installation, alteration, extension, connection, change and repair thereof, and of all appliances connected and used therewith, and of all pipings and fittings connected or attached thereto, shall have first been inspected and approved by an inspector of the State Liquefied Compressed Gas Board or Commissioner of Insurance or installed or altered by an installer as described in this chapter, and unless there is exhibited to such distributor or other person the approval of the inspector or installer provided for in the foregoing paragraphs; nor shall any person turn on or use such systems, containers, appliances, piping or fittings until same have been so inspected and approved, and such approval is exhibited to him. Any person who shall violate the provisions of this subsection, after a duly called hearing before the State Liquefied Compressed Gas Board, may have his license suspended or revoked.

(5) Any liquefied compressed gas dealer, or other person, may apply to the State Liquefied Compressed Gas Board, for permission to take an examination to qualify as an installer, as defined under the provisions of this chapter. The State Liquefied Compressed Gas Board shall prepare an examination which is sufficient to test the knowledge of the applicant as to his qualifications for installing, repairing, altering, etc., equipment used in the handling of liquefied compressed gases and of his knowledge of the handling and storage of such gases. If, after examination, the applicant is found to be competent and to

possess sufficient qualifications, the State Liquefied Compressed Gas Board shall issue to such applicant a license or certificate which shall designate the system or systems which the applicant is qualified to install. The State Liquefied Compressed Gas Board shall have the authority to establish different classes of installers. Should the holder of any such certificate perform his duties in an unworkmanlike manner or be guilty of negligence, carelessness, drunkenness on duty, or other good cause, then the State Liquefied Compressed Gas Board may cancel the certificate, good cause being shown; however, before the State Liquefied Compressed Gas Board shall cancel any such certificate it shall give the holder thereof five (5) days' written notice of its intention so to do, and shall grant to the person holding such certificate an opportunity to be heard before the State Liquefied Compressed Gas Board at such time and place as shall be fixed in such notice, to show cause, if any he or she can, why the license or certificate should not be suspended or revoked. Upon application to the State Liquefied Compressed Gas Board, and upon reexamination of the applicant by the State Liquefied Compressed Gas Board, a new certificate may be issued, but no such renewal certificate shall be issued within sixty (60) days of the cancellation of the original certificate. The State Liquefied Compressed Gas Board shall have authority to conduct any type examination of applicants desiring renewal certificates which will, in its opinion, test applicant's qualifications for the issuance of a renewal certificate. Any installer's certificates heretofore issued and outstanding shall be valid until suspended or revoked.

(6) Any dealer or installer who shall alter or change any system, or bulk storage plant system, or who shall substitute or change any such fitting, after said system has been approved by an inspector of the Commissioner of Insurance, without first obtaining the permission of such an inspector so to do, may be

enjoined from continuing in the business of a dealer or installer, as defined in this chapter, in the State of Mississippi for a period of not less than one (1) year, and any judge or chancellor authorized to grant injunctions may grant and issue the injunction herein authorized, but no such injunction shall be issued except upon notice of not less than five (5) days to the dealer or installer sought to be enjoined. It is expressly provided, however, that nothing herein shall prevent a dealer or an installer from making additional installations to any such system, provided that proper notice thereof is given to the Commissioner of Insurance on forms provided by him or her in the same manner as such notice is required to be given in cases of installations, repairs and alterations; nor shall anything herein prevent a dealer or an installer from making emergency repairs to any system or fitting when such repairs are made necessary by a mechanical defect, breakdown or injury to such system or fitting, but in the event of such emergency repairs, the dealer or installer making same shall, within fifteen (15) days after making such repairs, give the Commissioner of Insurance notice of the details and facts thereof in writing.

(7) (a) No legal action shall be commenced or maintained against any person engaged in this state in the business of selling at retail, supplying, handling or transporting liquefied petroleum gas or related equipment if the alleged injury, damage or loss was caused by:

(i) The alteration, modification or repair of liquefied petroleum gas equipment or a liquefied petroleum gas appliance if the alteration, modification or repair was done without the knowledge and consent of the liquefied petroleum gas seller, supplier, handler or transporter by a person other than the seller, supplier, handler or transporter, and the seller, supplier, handler or transporter had no knowledge of the

alteration, modification or repair having been done at the time of the alleged injury, damage or loss; or

(ii) The use of liquefied petroleum gas equipment or a liquefied petroleum gas appliance in a manner or for a purpose other than that for which the equipment or appliance was intended and that could not reasonably have been expected.

(b) A person who follows the applicable procedures established by the standards of the National Fire Code as adopted by the board and rules promulgated pursuant to this chapter shall not be deemed to be grossly negligent or willful and wanton, and shall not be subject to punitive or other exemplary damages for any act or omission which is covered by the National Fire Code.

**SECTION 2.** This act shall take effect and be in force from and after its passage.