

## **BILL ANALYSIS**

Senate Research Center  
79R16209 SMH-D

C.S.S.B. 1511  
By: Averitt  
State Affairs  
5/18/2005  
Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Many lawsuits referencing propane gas accidents have accused the propane companies of improper handling of the product. In defending themselves against these lawsuits, many family-owned companies have been forced out of business. Subsequent evidence has vindicated many propane businesses from fault in lawsuits brought against them. However, as a result of these lawsuits, propane companies have had to suffer from increased insurance rates and a decrease in the number of carriers that provide coverage for the industry.

Other states, such as Colorado, Kansas, Iowa, Oklahoma, Missouri, and Alabama have adopted limited liability statutes in order to protect propane retailers from lawsuit abuse and frivolous cases.

C.S.S.B. 1511 amends the Texas Natural Resources Code to limit the liability of individuals licensed to install or service liquefied petroleum gas (LPG) systems in residences, commercial premises, or public buildings.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 113.301, Natural Resources Code, as follows:

Sec. 113.301. **LIMITATION OF LIABILITY OF LICENSED INSTALLER OR SERVICER.** Provides that a person is not liable for damages caused by a leak from, a malfunction of, or the improper operation of a liquefied petroleum gas (LPG) system or any part of an LPG system that the person delivered for installation in but did not install or service or that the person installed or serviced in a residential, commercial, or public building or in a motor vehicle under certain conditions.

SECTION 2. Amends Subchapter K, Chapter 113, Natural Resources Code, by adding Sections 113.302 - 113.304, as follows:

Sec. 113.302. **LIMITATION OF LIABILITY IF SYSTEM MODIFIED.** Provides that a person who is not otherwise responsible under Section 113.301 is not liable for damages caused, in whole or in part, by another person's modification of an LPG system, piping or other equipment that is part of a system, or an appliance that is connected or attached to a system, if the person has no knowledge of the other person's modification of the LPG system, piping or other equipment, or appliance.

Sec. 113.303. **INVOICE NOT CONCLUSIVE PROOF OF KNOWLEDGE OF LEAKAGE.** Provides that, for the purposes of determining liability for harm caused by LPG leakage, the invoice for LPG delivered presented by a person who provides LPG service for an LPG system or who delivers LPG to the system to be considered by the fact finder for purposes of determining whether the person knew that the system was leaking but is not conclusive proof that the person knew of the leakage.

Sec. 113.304. CONSTRUCTION OF SUBCHAPTER. Prohibits this subchapter from being construed to exempt a person from complying with the requirements of this chapter or commission rules or limit the authority of the commission to administer or ensure compliance with this chapter or commission rules.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Provides that Section 113.301, Natural Resources Code, as amended by this Act, and Sections 113.302-113.304, Natural Resources Code, as added by this Act, are an exercise of authority under Section 66(c), Article III, Texas Constitution, and take effect only if this Act receives a vote of three-fifths of all the members elected to each house, as provided by Subsection (e) of that section.

SECTION 5. Effective date: upon passage or September 1, 2005.