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SENATE BILL 468

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY
Phil A. Griego

AN ACT

RELATING TO BUSINESS; ENACTING A NEW SECTION OF THE
CONSTRUCTION INDUSTRIES LICENSING ACT; PROVIDING FOR THE
REGULATION OF PROPANE DEALERS; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Construction Industries
Licensing Act is enacted to read:

"[NEW MATERIAL] PROPANE SALES--COMMISSION DUTIES.--

A. The commission shall adopt rules to regulate
propane sales that include requirements that:

(1) a propane advisory committee be appointed,
no later than ninety days after the effective date of this
section, that shall include propane consumer representation
equal to or greater than the proportion of propane industry
representation;

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1 (2) consumers be informed in writing by the
2 propane dealership from which the consumer is receiving goods
3 and services, as a component of monthly billing statements, of
4 the following:

5 (a) the commission will receive and
6 review consumer complaints;

7 (b) the consumer is obligated to attempt
8 remedy for complaints with the dealership against which the
9 complaint is being filed;

10 (c) the response time of the dealership
11 to the consumer complaint shall not exceed one billing cycle or
12 thirty days, whichever is less;

13 (d) contact information for the
14 commission and the proper process to pursue a complaint;

15 (e) the average pricing alterations and
16 variations applied to present and future billing cycles;

17 (f) price ranges to the consumer base of
18 the given dealership;

19 (g) a short description defining the
20 justifications for the price variations;

21 (h) propane industry pricing averages in
22 the consumer's region of service;

23 (i) all price alterations that will have
24 an impact, including increases or decreases, on the consumer's
25 present or future billing cycle;

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1 (j) justification for any pricing
2 alterations, prior to changes or by special notification, if
3 changes will affect the current billing cycle;

4 (k) conversion formulas for a unit of
5 propane to gallons, cubic feet or thermal units;

6 (l) the dealership's participation in
7 the low income home energy assistance program;

8 (m) criteria for qualifying for the low
9 income home energy assistance program; and

10 (n) the tank rental fee and any changes
11 in that fee;

12 (3) propane dealerships notify consumers in
13 writing of a disconnection or discontinuation of services seven
14 working days prior to service termination;

15 (4) the consumer has the right to change
16 propane dealerships, without financial or service-related
17 penalties, if the consumer is justly dissatisfied with either
18 uncompetitive or unclear pricing variation practices or the
19 service provided by a dealership;

20 (5) individual dealership pricing, including
21 special service charges such as non-scheduled deliveries, be
22 printed on a clearly posted form available in English and
23 Spanish in the propane dealer's office, on the interior and
24 exterior of the propane dealership, and if the dealership is
25 aware of a consumer's status of disability, the form be

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1 provided in a format appropriate to the needs of the consumer;

2 (6) propane dealerships not charge additional
3 fees or penalties for any services provided during a state of
4 emergency such as severe weather;

5 (7) during an emergency, propane dealerships
6 provide minimally necessary services to consumers of competitor
7 dealerships if the competitor is unable to do so, and the
8 dealerships providing the emergency services not charge
9 penalties or service charges that exceed the price agreed to
10 pursuant to the competitor's existing consumer contract;

11 (8) the consumer has the right to purchase and
12 use the consumer's own tank, in conjunction with all propane
13 dealerships; provided that all federal, state and local safety
14 regulations are adhered to;

15 (9) the consumer may, in a case of service
16 termination, rent a tank from the dealership that is providing
17 new services;

18 (10) dealerships whose service agreements are
19 terminated recover proprietary tanks within thirty days from
20 the date of service termination, and the dealership provide an
21 estimated retrieval date for the tanks;

22 (11) in the case of service termination, the
23 consumer has the right to be present when the dealership
24 measures the remaining volume;

25 (12) propane dealerships receiving funding

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1 from the low income home energy assistance program be subject
2 to the winter moratorium program;

3 (13) dealership employees or agents providing
4 services on proprietary consumer equipment and private property
5 be licensed pursuant to law;

6 (14) upon service termination, the consumer be
7 refunded by the terminated dealership for any unused propane,
8 and the refund be based upon the price of propane and services
9 agreed to during the billing cycle immediately prior to the
10 date of service termination, and mailed to the consumer within
11 fifteen days following tank removal. If the tank is owned by
12 the consumer, the refund will be mailed within fifteen days of
13 service termination; and

14 (15) propane dealerships register all prices
15 and price justifications with the commission.

16 B. A person who violates a rule adopted by the
17 commission pursuant to this section is guilty of a penalty
18 assessment misdemeanor. As used in this section, "penalty
19 assessment misdemeanor" means violation of a provision of this
20 section for which the following listed penalty assessment is:

21 (1) two hundred dollars (\$200) for the first
22 violation;

23 (2) five hundred dollars (\$500) for a second
24 violation within five years of the first; and

25 (3) eight hundred dollars (\$800) for a third

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1 or subsequent violation within five years of the first."

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