



**Senate Fiscal Agency**  
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BILL



ANALYSIS

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House Bill 4123 (as reported without amendment)  
Sponsor: Representative Roger Victory  
Senate Committee: Judiciary  
House Committee: Judiciary

Date Completed: 3-21-13

### **RATIONALE**

Liquefied petroleum gas (LPG) can be dangerous if improperly handled. Although few accidents occur, they can cause serious injury. Reportedly, these incidents typically result from consumers' misuse of equipment due to improper training or lack of qualifications. The accidents can lead to litigation between many parties, including businesses that sell, supply, and transport LPG. It has been suggested that the State provide some level of immunity for LPG businesses from these lawsuits.

### **CONTENT**

The bill would amend the Revised Judicature Act to specify that a liquefied petroleum gas business would not be liable for damages for personal injury, death, or property damage arising from the sale, supplying, handling, transportation, or delivery of LPG if that activity were in compliance with all of the following:

- Rules promulgated under the Fire Prevention Code.
- Section 2 of Public Act 241 of 1959, which regulates the transfer of liquefied petroleum or carbonic gas, and other gas compounds, out of or into a stationary container.
- Rules promulgated under the Single State Construction Code Act.

If an LPG business were not in compliance with those standards, it would not be liable if the failure to comply were not a proximate cause of the personal injury, death, or property damage.

Immunity from liability under the bill would apply if the injury, death, or property damage were caused by either of the following:

- The alteration, modification, or repair of LPG equipment or an LPG gas appliance, unless the LPG business knew of or consented to that action.
- The use of LPG equipment or an LPG gas appliance in a manner or for a purpose other than the manner in which or purpose for which the equipment or appliance was intended to be used, unless the LPG business could reasonably have expected that use.

Immunity from liability under the bill would not apply to a manufacturer of LPG equipment.

The bill would define "liquefied petroleum gas business" as a person who is engaged primarily in the business of selling at retail, supplying, handling, or transporting liquefied petroleum gas. "Person" would mean an individual, partnership, corporation, association, governmental entity, or other legal entity.

The bill would take effect on July 1, 2013.

Proposed MCL 600.2977

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

**Supporting Argument**

Consumers, and third party servicers, who lack proper training or qualifications, are usually the cause of serious accidents involving LPG. Some homeowners, tenants, and small business maintenance workers do not realize the extensive code requirements in place to ensure the safety of LPG systems. Improperly modifying these systems puts many people at risk of death or injury. When an accident occurs, and serious injury results, the plaintiff will usually name any party remotely involved, including an LPG business, in a lawsuit.

In cases in which the consumer or a third party misused, or modified equipment for, LPG, and injury resulted, it does not make sense to subject a retailer to litigation. The bill would offer clear legal reform to avoid unwarranted suits against LPG businesses. Those that were a proximate cause of injury would still be liable. Competent LPG businesses that conformed to statutory and administrative regulations regarding safety standards, and were not the proximate cause of injury, would be shielded from liability for injuries stemming actions taken by LPG users and third parties.

Inappropriate litigation involving responsible LPG businesses results in higher insurance premiums. These costs are then passed onto the end consumer, resulting in higher product costs. The bill would prevent some of this litigation and therefore reduce LPG costs to consumers.

Legislative Analyst: Glenn Steffens

**FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.