

H. B. 3071

(By Delegates Hunt, Varner, Givens, Perdue and
Kominar)

[Introduced February 9, 2011; referred to the
Committee on Energy, Industry and Labor, Economic
Development and Small Business then the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §29-3-33, relating to
liquefied petroleum gas-consuming equipment and appliances and
the business of selling at retail, supplying, handling or
transporting certain types of liquefied petroleum gas;
requiring certification of correctness as to design,
construction and performance of domestic and commercial
liquefied petroleum gas-consuming equipment and appliances;
requiring installation of liquefied petroleum gas-consuming
appliances, equipment or other components of a liquefied
petroleum gas delivery system in accordance with the
instructions of the manufacturer of the appliance, equipment
or component; prohibiting the alteration, modification,
maintenance or repair of liquefied petroleum gas-consuming
appliances, equipment or other components of a liquefied
petroleum gas delivery system unless done in accordance with

1 the instructions of the manufacturer; providing protections
2 from liability for persons engaged in the business of selling
3 at retail, supplying, handling or transporting liquefied
4 petroleum gas, for acts in which they did not participate; and
5 using existing criminal penalty provisions for violations.

6 *Be it enacted by the Legislature of West Virginia:*

7 That the Code of West Virginia, 1931, as amended, be amended
8 by adding thereto a new section, designated §29-3-33, to read as
9 follows:

10 **ARTICLE 3. FIRE PREVENTION AND CONSUMER SAFETY ACT.**

11 **§29-3-33. Certification of domestic and commercial liquefied**
12 **petroleum gas-consuming equipment installation;**
13 **adherence to manufacturer's instructions; protection**
14 **from liability for selling at retail, supplying,**
15 **handling or transporting liquefied petroleum gas.**

16 (a) Domestic and commercial liquefied petroleum gas-consuming
17 equipment and appliances may not be installed unless their
18 correctness as to design, construction, and performance is
19 certified by:

20 (1) A nationally recognized testing agency adequately equipped
21 and competent to perform the services evidenced by the attachment
22 of its seal or label to the liquefied petroleum gas appliances.
23 This agency must be one which maintains a program of national
24 inspection of production models of liquefied petroleum gas

1 appliances, at least once each year on the manufacturer's premises;
2 or

3 (2) By the American Gas Association Laboratories, as evidenced
4 by the attachment of its listing symbol or approval seal to
5 liquefied petroleum gas appliances and a certificate or letter
6 certifying approval under the above-mentioned requirements. A
7 listing by Underwriters' Laboratories, Inc., is considered
8 compliance with the provisions of this subsection.

9 (b) A person may not install liquefied petroleum gas-consuming
10 appliances, equipment or other components of a liquefied petroleum
11 gas delivery system unless the installation is made in accordance
12 with the instructions of the manufacturer of the appliance,
13 equipment or component.

14 (c) A person may not alter, modify, maintain or repair
15 liquefied petroleum gas-consuming appliances, equipment or other
16 components of a liquefied petroleum gas delivery system unless the
17 alteration, modification, maintenance or repair is made in
18 accordance with the instructions of the manufacturer of the
19 appliance, equipment or component.

20 (d) A person engaged in this state in the business of selling
21 at retail, supplying, handling or transporting liquefied petroleum
22 gas is not liable for civil damages for injury to persons or
23 property if the injury, damage or loss was caused by:

24 (1) The alteration, modification or repair of liquefied
25 petroleum gas-consuming equipment or a liquefied petroleum gas-

1 consuming appliance if the alteration, modification or repair was
2 done without the knowledge and consent of the liquefied petroleum
3 gas seller, supplier, handler or transporter; or

4 (2) The use of liquefied petroleum gas-consuming equipment or
5 a liquefied petroleum gas-consuming appliance in a manner or for a
6 purpose other than that for which the equipment or appliance was
7 intended and that could reasonably have been expected.

NOTE: The purpose of this bill is to require certification of correctness as to design, construction and performance of domestic and commercial liquefied petroleum gas-consuming equipment and appliances. The bill would also:

(1) Require the installation of liquefied petroleum gas-consuming appliances, equipment or other components of a liquefied petroleum gas delivery system in accordance with the instructions of the manufacturer of the appliance, equipment or component;

(2) Prohibit the alteration, modification, maintenance or repair of liquefied petroleum gas-consuming appliances, equipment or other components of a liquefied petroleum gas delivery system unless done in accordance with the instructions of the manufacturer; and

(3) Provide protection from liability for persons engaged in the business of selling at retail, supplying, handling or transporting liquefied petroleum gas, for acts in which they did not participate.

This section is new; therefore, it has been completely underscored.