

**H. B. 4508**

(By Delegate Hunt)

[Introduced February 13, 2012; referred to the  
Committee on the Judiciary.]

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

1 petroleum gas delivery system unless done in accordance with  
 2 the instructions of the manufacturer; providing protections  
 3 from liability for persons engaged in the business of selling  
 4 at retail, supplying, handling or transporting liquefied  
 5 petroleum gas, unless they are negligent or act intentionally,  
 6 and the negligence or intentional act causes or partially  
 7 causes injury or damage; and using existing criminal penalty  
 8 provisions for violations.

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

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

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

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

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

23 (1) A nationally recognized testing agency adequately equipped

1 and competent to perform the services evidenced by the attachment  
2 of its seal or label to the liquefied petroleum gas appliances.  
3 This agency must be one which maintains a program of national  
4 inspection of production models of liquefied petroleum gas  
5 appliances, at least once each year on the manufacturer's premises;  
6 or

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

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

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

24 (d)(1) A person engaged in this state in the business of

1 selling at retail, supplying, handling or transporting liquefied  
2 petroleum gas is not liable for civil damages for injury to persons  
3 or property if:

4 (A) The injury, damage or loss was caused by the alteration,  
5 modification or repair of liquefied petroleum gas-consuming  
6 equipment or a liquefied petroleum gas-consuming appliance; and

7 (B) The alteration, modification or repair was done without  
8 the knowledge and consent of the liquefied petroleum gas seller,  
9 supplier, handler or transporter.

10 (2) A person engaged in this state in the business of selling  
11 at retail, supplying, handling or transporting liquefied petroleum  
12 gas is not exempt from liability for civil damages under  
13 subdivision (1) of this subsection if the person or his or her  
14 agent or employee is negligent or acts intentionally, and the  
15 negligence or intentional act causes or partially causes injury or  
16 damage.

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, unless they are negligent or act intentionally, and the negligence or intentional act causes or partially causes injury or damage.

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