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## FISCAL IMPACT REPORT

SPONSOR Scott ORIGINAL DATE 02/11/19  
LAST UPDATED \_\_\_\_\_ HB 410

SHORT TITLE Liquefied Petroleum Limited Liability SB \_\_\_\_\_

ANALYST Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Attorney General (NMAG)  
State Land Office (SLO)  
Administrative Office of the Courts (AOC)  
Regulation and Licensing Department (RLD)

### SUMMARY

#### Synopsis of Bill

House Bill 410 (HB 41) adds a new section to the Liquefied Petroleum Gases and Compressed Natural Gases Act to provide that no legal action shall be commenced or maintained against a person selling at retail, supplying, handling or transporting liquefied petroleum gas if the alleged injury, damage or loss was caused by:

(1) the alteration, modification or repair of liquefied petroleum gas equipment or a liquefied petroleum gas appliance if the alteration, modification or repair was done without the knowledge and consent of the liquefied petroleum gas seller, supplier, handler or transporter; or

(2) the use of liquefied petroleum gas equipment or a liquefied petroleum gas appliance in a manner or for a purpose other than that for which the equipment or appliance was intended and that could not reasonably have been expected.

The bill further provides that a person who follows procedures established by rule by Construction Industries Commission regarding the selling at retail, supplying, handling or transporting of liquefied petroleum gas shall not be deemed to be grossly negligent or willful and wanton.

## FISCAL IMPLICATIONS

No fiscal implications to CID or the LP Gas Trade Bureau. The LP Gas Trade Bureau is a Bureau within the Construction Industries Division (CID) of RLD.

## SIGNIFICANT ISSUES

The bill creates immunity for end use of liquefied petroleum gas in equipment or an appliance.

AOC reports the efforts by state propane associations to enact limited liability legislation have been ongoing. Colorado enacted limited liability legislation in 2004, following Georgia, Iowa, Missouri, Utah, Kansas and Kentucky. See <https://www.LPGasmagazine.com/propane-retail-operations-safety-training-limiting-liability/> for discussion. The National Propane Gas Association (NPGA) has put together a “Propane Limited Liability Package”, <https://www.npga.org/wp-content/uploads/2017/04/NPGA-Limited-Liability-Package-complete.pdf>. The HB 410 structure and language duplicates the “Sample Limited Liability Legislation” contained in the NPGA’s package. The proposed legislation requires a balancing between the needs of those legitimately injured in accidents involving liquefied petroleum and the cost of liability insurance for sellers, suppliers, handlers and transporters of LPG, and whether those costs are pushing people out of performing a necessary and desired business service for the benefit of customers.

## AMENDMENTS

RLD believes it is equally important that such licenses fully comply with the LP & CNG Act.

Subsection (A) (1) listing the exemptions from legal actions states that if LP equipment or appliances are altered or modified without the knowledge of the “gas seller, supplier, handler or transporter”, legal action shall not be commenced or maintained against such LP gas seller, supplier, handler or transporter. Subsection (A) (2) dealing with another utilizing the LP equipment or appliances for other than its intended purpose but does not include the limitation as to could have been reasonably expected by “gas seller, supplier, handler or transporter”. Including this limitation to LP gas sellers, suppliers, handlers or transporters may be useful.

There could be an issue as to persons potentially claiming this bill would allow unlicensed LP work. In order to ensure the Act’s compliance is mandatory the following language is suggested:

Section 1, subsection A: [page 1, line 20] No legal action shall be commenced or maintained against a liquefied petroleum properly licensed person engaged in this state...

Section 1, subsection A (1): [line 2, page 2] ...without the knowledge and consent of the properly licensed liquefied petroleum gas seller...

Section 1, subsection B: [line 9, page 2] A properly licensed person who follows the applicable laws and procedures established by this Act and its rules promulgated by the commission...

AHO/al