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HOUSE BILL 512

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

INTRODUCED BY

Jim R. Trujillo

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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or subsequent violation within five years of the first."

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