



March 24, 2015

ENGROSSED SENATE BILL No. 361

DIGEST OF SB 361 (Updated March 23, 2015 12:33 pm - DI 123)

Citations Affected: IC 34-31.

Synopsis: Defense to liability concerning liquefied petroleum gas providers. Provides that the provider of liquefied petroleum gas that was used in: (1) liquefied petroleum gas equipment; or (2) a liquefied petroleum gas appliance; involved in causing bodily injury or property damage has an affirmative defense in any action brought against the provider if a person assumed the risk of causing the bodily injury or property damage because of certain actions taken by the person in unreasonably altering, modifying, repairing, or using the equipment or appliance. Changes the standard for altering petroleum gas equipment or appliances from "unreasonably alters" to "materially alters". Removes language stating that the assumption of a risk is a complete defense to certain actions against a provider of liquefied petroleum gas.

Effective: July 1, 2015.

Messmer, Young R Michael, Buck

(HOUSE SPONSORS — MCMILLIN, STEUERWALD)

January 8, 2015, read first time and referred to Committee on Civil Law.

February 3, 2015, reported favorably — Do Pass.

February 5, 2015, read second time, amended, ordered engrossed.

February 6, 2015, engrossed.

February 9, 2015, read third time, passed. Yeas 48, nays 1.

HOUSE ACTION

March 2, 2015, read first time and referred to Committee on Judiciary.

March 23, 2015, amended, reported — Do Pass.

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March 24, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 361

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-31-11.2 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]:
4 **Chapter 11.2. Defenses Related to Liquefied Petroleum Gas**
5 **Sec. 1. This chapter applies only to a cause of action that accrues**
6 **after June 30, 2015.**
7 **Sec. 2. If:**
8 **(1) a person:**
9 **(A) modifies, repairs, or materially alters:**
10 **(i) liquefied petroleum gas equipment; or**
11 **(ii) a liquefied petroleum gas appliance;**
12 **without the knowledge and consent of the provider of the**
13 **liquefied petroleum gas used in the equipment or**
14 **appliance; or**
15 **(B) uses the:**
16 **(i) liquefied petroleum gas equipment; or**

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1 (ii) liquefied petroleum gas appliance;
2 in a manner or for a purpose other than that for which the
3 equipment or appliance was reasonably intended; and
4 (2) the person or another person suffers bodily injury or
5 property damage because of an action taken by the person as
6 described in subdivision (1)(A) or (1)(B);
7 the person is considered to have assumed the risk of causing the
8 bodily injury or property damage because of the action taken by
9 the person under subdivision (1)(A) or (1)(B).
10 Sec. 3. The provider of the liquefied petroleum gas that was used
11 in:
12 (1) liquefied petroleum gas equipment; or
13 (2) a liquefied petroleum gas appliance;
14 involved in causing bodily injury or property damage described in
15 section 2(2) of this chapter has an affirmative defense in any action
16 brought against the provider if a person assumed the risk of
17 causing the bodily injury or property damage described in section
18 2(2) of this chapter because of an action taken by the person under
19 section 2(1)(A) or 2(1)(B) of this chapter.



COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred Senate Bill No. 361, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 361 as introduced.)

ZAKAS, Chairperson

Committee Vote: Yeas 5, Nays 1

 SENATE MOTION

Madam President: I move that Senate Bill 361 be amended to read as follows:

Page 1, line 4, delete "Liquified" and insert "**Liquefied**".

Page 1, line 9, after "(A)" insert "**unreasonably**".

Page 1, line 12, delete "seller, supplier," and insert "**provider**".

Page 1, line 13, delete "handler, or transporter".

Page 2, line 10, delete "seller, supplier, handler, or transporter of" and insert "**provider of the**".

Page 2, line 16, delete "seller, supplier, handler, or transporter" and insert "**provider**".

Page 2, after line 20, begin a new paragraph and insert:

"Sec. 4. Notwithstanding IC 34-51-2-6 concerning comparative fault, the assumption of risk under section 2 of this chapter is a complete defense to an action against a provider of liquefied petroleum gas for bodily injury and property damage resulting from the assumed risks."

(Reference is to SB 361 as printed February 4, 2015.)

MESSMER



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 361, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 1, delete "IC 34-31-11" and insert "IC 34-31-11.2".

Page 1, line 4, delete "11." and insert "**11.2.**".

Page 1, line 9, delete "unreasonably alters,".

Page 1, line 9, delete "or repairs:" and insert "**repairs, or materially alters:**".

Page 2, delete lines 20 through 24.

and when so amended that said bill do pass.

(Reference is to SB 361 as reprinted February 6, 2015.)

STEUERWALD

Committee Vote: yeas 11, nays 0.

