

SENATE BILL NO. 428

2/16 Introduced  
2/16 Referred to Business & Industry  
2/21 Hearing  
2/22 Tabled in Committee

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INTRODUCED BY *Senate* BILL NO. *428*  
*Christians* *Moran*  
*Conover* *Davis*

A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE CERTAIN USES AND TRANSACTIONS RELATING TO CONTAINERS OF LIQUEFIED PETROLEUM OR INDUSTRIAL GASES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Purpose. It is the purpose of [this act] to protect the public welfare and promote safety in the filling and use of containers of liquefied petroleum or industrial gases by implementing the interstate commerce commission regulations and the national standards of safety on the filling of these containers. It is the purpose of [this act] to ensure that properly constructed and tested containers be used and that only liquefied petroleum or industrial gases of suitable and safe vapor pressure be placed in these containers. To attain this end, the filling or refilling of liquefied petroleum and industrial gas containers by other than the container owner or authorized person must be controlled and specific authority to prevent violation and encourage enforcement must be established.

Section 2. Definitions. For purposes of [this act] the following definitions apply:

(1) "Container owner" means:

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(a) a person who holds a written bill of sale or other instrument under which title to a container was transferred to such person;

(b) a person who holds a paid or receipted invoice showing purchase of and payment for a container;

(c) any person whose name, initials, mark, or other identifying device has been plainly and legibly stamped or otherwise shown upon the surface of a container for a period of not less than 1 year prior to [the effective date of this act]; or

(d) a manufacturer of a container who has not sold or transferred ownership thereof by written bill of sale or by other means.

(2) "Industrial gas" means any material that is composed exclusively of any of the following gases or mixtures of gases: oxygen, acetylene, nitrogen, argon, or carbon dioxide.

(3) "Liquefied petroleum gas" means any material that is composed predominantly of any of the following hydrocarbons or mixtures of hydrocarbons: propane, propylene, butanes (normal butane and isobutane), or butylenes.

Section 3. Containers and identifying devices -- unlawful acts. If a liquefied petroleum or industrial gas container bears upon its surface in plainly legible

1 characters the name, mark, initials, or other identifying  
 2 device of the container owner, it is unlawful for any person  
 3 except such owner or a person authorized in writing by him  
 4 to:

5 (1) fill or refill the container with liquefied  
 6 petroleum or industrial gas or any other gas or compound;

7 (2) buy, sell, offer for sale, give, take, loan,  
 8 deliver, or permit to be delivered or otherwise use, dispose  
 9 of, or traffic in any such container; or

10 (3) deface, erase, obliterate, cover up or otherwise  
 11 remove, conceal, or change any name, mark, initials, or  
 12 other identifying device of the owner or to place the name,  
 13 mark, initials, or other identifying device of any person  
 14 other than the owner on the container.

15 Section 4. Presumptive evidence of unlawful use of  
 16 containers. (1) The following acts constitute presumptive  
 17 evidence of a violation of [section 3]:

18 (a) the use of a liquefied petroleum or industrial gas  
 19 container by any person other than the person whose name,  
 20 mark, initials, or other identifying device is or was upon  
 21 the liquefied petroleum or industrial gas container for the  
 22 sale of liquefied petroleum or industrial gas or filling or  
 23 refilling with liquefied petroleum or industrial gas; or

24 (b) the possession of liquefied petroleum or  
 25 industrial gas containers by any person other than the

1 person having his name, mark, initials, or other identifying  
 2 device thereon.

3 (2) The acts enumerated in subsection (1) do not  
 4 constitute presumptive evidence of an unlawful use if the  
 5 act is performed with the written consent of the container  
 6 owner.

7 Section 5. Violations -- search warrants -- penalty.

8 (1) If a justice of the peace or other judge is satisfied  
 9 that there is probable cause to believe that a provision of  
 10 [this act] has been violated, he shall issue a search  
 11 warrant and cause the designated premises to be searched for  
 12 the purpose of discovering and obtaining liquefied petroleum  
 13 or industrial gas containers used or possessed in violation  
 14 of [this act]. The justice of the peace or other judge may  
 15 cause to be brought before him a person in whose possession  
 16 the containers are found and inquire into the circumstances  
 17 of the possession.

18 (2) A justice of the peace or other judge may find  
 19 probable cause to issue a search warrant pursuant to  
 20 subsection (1) based on the sworn statement of a person who  
 21 has personal knowledge from which the person reasonably  
 22 believes that another person is in violation of [section 3].

23 (3) A person who violates a provision of [section 3]  
 24 is guilty of a misdemeanor.

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