

**Department of Legislative Services**

Maryland General Assembly

2007 Session

**FISCAL AND POLICY NOTE**

Senate Bill 997

(Senator Stone, *et al.*)

Judicial Proceedings and Finance

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**Liquefied Natural Gas and Liquefied Petroleum Gas - Liability**

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This bill imposes strict liability on a person that stores, transports, or converts liquefied natural gas (LNG) or liquefied petroleum gas (LPG) for personal or property damage that results from a release of either gas in the State.

The bill takes effect June 1, 2007.

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**Fiscal Summary**

**State Effect:** The bill is not expected to directly affect State finances.

**Local Effect:** The bill is not expected to directly affect local government finances.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Bill Summary:** A person may not be relieved of liability because of • compliance with laws or regulations regarding safe handling of LNG or LPG; • exercise of due care in the handling of LNG or LPG; • any proof of the means of ignition in the case of a fire or explosion; • any distinctions made between direct and consequential damages; or • any determinations of intent or negligence.

“LNG” means natural gas cooled to form a liquid at approximately atmospheric pressure. “LPG” is defined as any material composed predominately of propane, propylene, normal butane, isobutane, or butylenes or any mixture of those gases.

A person called for assistance in an emergency due to a LNG or LPG release is generally immune from civil liability resulting from assistance or advice given in the emergency, with specified exceptions.

**Current Law/Background:** The Court of Appeals has adopted the doctrine of strict liability relating to abnormally dangerous activities set forth in § 519 of the Restatement (Second) of Torts, which provides “one who carries on an abnormally dangerous activity is subject to liability for harm to the person, land or chattels of another resulting from the activity, although he has exercised the utmost care to prevent the harm.” *Rosenblatt v. Exxon*, 335 Md. 58, 69-70 (1994). A comment in the Restatement states that the general rule is subject to numerous exceptions and qualifications. It is unclear whether this standard applies to a person who stores, transports, or converts LNG or LPG.

The standard of negligence might otherwise be applied in an action to recover damages for personal or property damage. Negligence is “conduct which falls below the standard established by law for the protection of others against unreasonable risk of harm.” Restatement (Second) of Torts, § 282, comment d (1976).

Strict liability is imposed by statute on drilling for oil or gas on the lands or in the waters of the State. A person doing so is strictly liable for any damages that occur in exploration, drilling, or producing operations or in plugging of the person’s oil or gas wells, including liability to the State for any environmental damage.

The Court of Appeals has also adopted the doctrine of strict liability set out in § 402A of the Restatement (Second) of Torts relating to liability of sellers of products for physical harm to a user or consumer. *A.J. Decoster Co. v. Westinghouse Elec. Corp.*, 333 Md. 245, 254 (1004) (citing *Phipps v. General Motors Corp.*, 278 Md. 337 (1976)).

Under State law, with specified exceptions, a person who is called on for assistance in an emergency is not subject to any civil liability or penalty resulting from assistance or advice rendered in mitigating the effects of an actual or threatened discharge of a hazardous substance or material, preventing or cleaning up a discharge of a hazardous substance or material, or attempting any of those acts.

### *LNG and LPG*

LNG is cooled to -260° F, which changes the natural gas from vapor to liquid, reducing its volume by more than 600 times and making it practical for storage and transportation. LPG is generally called propane, though it is a mixture of propane and other gases. It requires moderately high pressure to change to a liquefied state and is produced through natural gas purification and crude oil refining.

The Public Service Commission regulates LNG facilities and certain LPG systems (that provide service to 10 or more customers) and enforces federal safety standards applicable to those facilities/systems.

The bill is similar to a New York law that also imposes strict liability on any person that undertakes the storage, transportation, or conversion of liquefied natural and petroleum gas in the state.

**Small Business Effect:** The National Propane Gas Association (NPGA) advises the majority of propane companies in the State are small, locally owned operations. In 2006, NPGA had 37 members in Maryland doing business in 76 locations.

Imposing strict liability on persons who store, transport, or convert LPG in Maryland could adversely affect small business propane companies if insurance companies increased insurance premiums due to a strict liability standard in the State. Increased insurance costs for propane companies could in turn affect small businesses that store and use propane, through higher costs.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Public Service Commission, Department of Natural Resources, Maryland Department of the Environment, Anne Arundel County, U.S. Department of Energy, Federal Energy Regulatory Commission, Mid-Atlantic Propane Gas Association, National Propane Gas Association, Office of the Attorney General, Department of Legislative Services

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