

LIQUEFIED PETROLEUM GAS-- : Neither Section 2 of Senate Bill No.  
: 179, 64th General Assembly nor Basic  
Drums -- Transportation-- : Rule B.15 respecting the handling  
Installation. : of liquefied petroleum gas prohibit  
: the transportation of such drums,  
: either empty or containing gas, on  
: the highways of this State.  
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February 3, 1955

Honorable Lyndon Sturgis  
Prosecuting Attorney  
Greene County  
Springfield, Missouri

Dear Mr. Sturgis:

This is the opinion of this office complying with your recent request for an opinion whether certain practices followed by individuals and others in the handling, transportation and installation of steel drums containing liquefied petroleum gas, or such drums when empty on the highways of this State and on the property of dealers in and users of such product, comply with the terms of Section 2 of Senate Bill No. 179, 64th General Assembly and with Basic Rule B.15 of the Rules and Regulations promulgated thereunder by the State Inspector of Oils. Your request reads as follows:

"The Secretary of the Missouri L-P Gas Association has asked me to write you for an opinion on a matter pertaining to such Association prior to the time that I take office. It is my understanding that such practice is proper in unusual cases.

"The matter on which an opinion is requested concerns the interpretation of Sec. 2 of Senate Bill No. 179, 64th General Assembly and Basic Rule B.15 of the Rules and Regulations promulgated thereunder by the State Inspector of Oils.

"The factual situation, which is thought to be in violation thereof, is set forth in the letter of D. M. Orcutt, Secretary

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of the Association, dated December 11, 1954, which letter I enclose.

"You will note the statement in such letter, that the Association hopes that your office can give an opinion on this matter by January 19, 1955. I am sure this request will receive your careful and prompt attention."

The State Inspector of Oils of the Motor Vehicle Fuel Tax Unit of the Department of Revenue has, upon our request, supplied this office with a copy of such Rules and Regulations in booklet form.

With your request there is transmitted for our consideration the letter dated December 11, 1954, noted in the request, stating a hypothetical case of practices by an individual in the transportation, installation and use of such gas drums, either empty or containing such gas, in Greene County, involving the use of the public highways, the work and physical action of individuals or others in the installation of equipment necessary thereunder, and the use thereof by individuals.

That part of the letter referred to, describing practices supposedly indulged in by an individual in the handling, transportation and installation of such liquefied petroleum gas and gas drums, but which do actually happen at times, and which apparently prompted the request for this opinion, reads as follows:

"To be more specific a parallel case might occur in this manner: I am a user of so-called bottle-gas at my residence located on Rural Route 3. The equipment I use has been loaned to me by the dealer supplying our gas. This equipment consists of two 100# steel drums of an approved type. Common practice has been for my supplier to deliver a newly charged drum, when the supply is depleted. However, my supply happens to be depleted prior to my supplier's customary trip to my residence. I simply load the uncharged drum in the tonneau of my private automobile, perhaps uncapped and take it to

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my supplier for a re-charging. The route I take might happen to be through the local fire-zone, or whatever is necessary to get to my destination. My supplier will either re-charge the drum brought to him, or give me a fully charged drum of L-P Gas, load it into my private automobile and send me on my way. After arriving at my residence, I must unload this drum (now 200#) hook it to the gas line, and trust that everything is in satisfactory order."

Section 2 of Senate Bill No. 179, enacted by the 64th General Assembly (Laws of Missouri, 1947, Vol. II, Page 252), is now Subsection 1 of Section 323.020, RSMo 1949. That part of said Subsection 1 of said Section 323.020 providing for the promulgation and enforcement of reasonable rules and regulations by the Department of Revenue, respecting the handling and transportation on the public highways and elsewhere of such liquefied petroleum gas, reads as follows:

"1. The appropriate officer in charge of the collection and inspection of motor vehicle fuels in the department of revenue shall make, promulgate and enforce regulations setting forth minimum general standards covering the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck, tank trailer, and utilizing liquefied petroleum gases and specifying the odorization of said gases and the degree thereof. Said regulations shall be such as are reasonably necessary for the protection of the health, welfare and safety of the public and persons using such materials, and shall be in substantial conformity with the generally accepted standards of safety concerning the same subject matter. Such regulation shall be adopted by the appropriate officer in charge of the collection and inspection of motor vehicle fuels in the department of revenue only after a public hearing thereon."

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Basic Rule B.15 of such Rules and Regulations noted in the request relating to "Instructions" is found at page 18 of the said booklet, and reads as follows:

"B.15. Instructions.

"Personnel performing installation, operation and maintenance work must be properly trained in such function."

We have given extended study to Section 2 of said Senate Bill No. 179, the Rules and Regulations promulgated thereunder by the State Inspector of Oils, and the letter of the Missouri L-P Gas Association questioning whether certain acts of individuals in the handling of such gas and the equipment commonly used in the utilization thereof violate said Section 2 and Basic Rule B.15 of such Rules and Regulations or both of them. The first question to be answered is, as we read and understand the factual background of the request, supposedly existing, whether it is in violation of said statute or said rules for a private individual to transport gas drums, either filled or empty, on the highways of this State.

We do not believe such acts, if they are indulged in, constitute a violation of either the said statute or said Basic Rule B.15.

The purpose and intent of the Legislature in enacting said Section 2 of said Senate Bill, now Subsection 1 of said Section 323.020, was to provide and delegate authority to the Inspector of Oils, to prepare and make effective rules and regulations for the safe handling of petroleum liquefied gas. When that statute was complied with by the Inspector of Oils by preparing and issuing such rules and regulations, as was accomplished by him, there was nothing else for the statute to require to be done. The section itself then could not be and is not violated by any of the acts said to be indulged in by private individuals or others in the transportation, handling or installation of equipment used in the liquefied petroleum gas business. That leaves Basic Rule B.15 only to be considered. We do not believe Basic Rule B.15 is violated by the acts of an individual in the handling, transportation or installation of either filled or empty gas drums. We have observed that Basic Rule B.15 requires that: "Personnel

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performing installation, operation and maintenance work must be properly trained in such function." There is no reference in said Rule to the "transportation" of either the empty drums or drums containing such gas. We do not believe the word "installation" as used in said Rule B.15 can be enlarged so as to include the "transportation" of such drums, either empty or filled, with such gas. The words "transportation" and "installation" each when standing alone or translated into an activity or condition have no kindred meaning or synonymous relationship one with the other. We do not believe, therefore, that Basic Rule B.15 may be construed to refer to or cover, in the construction and meaning of the rule, the act of transporting such gas or such gas drums on the highways of this State under the term "installation" contained in said rule.

Considering the term "installation" as used in said Basic Rule B.15 it is provided that "personnel" performing such installation must be properly trained in such activity. "Personnel", according to Webster, means a body of persons who are employed to render service as a group, or as a collective number of attendants upon some undertaking. In this case it would apparently mean the employees of a dealer in such gas. We believe Rule 2.10, page 29, of the compiled brochure of said Rules and Regulations supports this position on the question of instructions to or training of the individual user of such gas, as to installations. That rule states:

"For installations which require operation of equipment by the user, instructions shall be furnished to the personnel responsible for the operation of the system."

We believe that under this rule, when the dealer or his employees have knowledge of how to advise the user and instruct the user of such gas drums how to install them by connecting them with other equipment, this would constitute proper training to such personnel employed by the dealer and to the individual user of the equipment by the personnel of the dealer and would comply with said Basic Rule B.15 and would not be a violation of the term "installation" in such rule by the user or the dealer in acting accordingly, and would not be giving the word a broader meaning than was intended by the rule when read and applied along with said Rule 2.10, supra.

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CONCLUSION.

Considering the premises, it is the opinion of this office that:

1) A private individual user of liquefied petroleum gas may transport over the highways of Missouri empty liquefied petroleum gas drums or such drums containing such gas without violating either Section 2 of Senate Bill No. 179, 64th General Assembly, or Basic Rule B.15 of the Rules and Regulations promulgated under said Section 2 by the Inspector of Oils of this State;

2) An individual user of liquefied petroleum gas does not violate the terms of Section 2 of Senate Bill No. 179, 64th General Assembly of Missouri or Basic Rule B.15 of the Rules and Regulations promulgated thereunder by the Inspector of Oils of this State in installing in his own home a drum containing such gas if such individual has been instructed by a dealer, or the employees of such dealer, supplying such gas to him, how to install such drum and connect it to other pipes and equipment in the operation of such equipment in the use of such gas.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. George W. Crowley.

Very truly yours,

JOHN M. DALTON  
Attorney General

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