

**53-7-315 Enforcement of part and rules.**

- (1) Except as provided in Subsection (6), this part, the rules made under it, and orders issued by the board are enforced by:
  - (a) the enforcing authority, unless otherwise provided by the board; and
  - (b) the board.
- (2)
  - (a) A person who knowingly violates or fails to comply with this part is guilty of a class B misdemeanor and is punishable by a fine of not less than \$50 nor more than \$500.
  - (b) A person previously convicted under Subsection (2)(a) who knowingly violates or fails to comply with this part is guilty of a class B misdemeanor and is punishable by a fine of not less than \$200 nor more than \$2,000.
  - (c) Each day the violation or failure to comply continues constitutes a separate offense.
- (3) The enforcing authority may enter the premises of a licensee under this part, or any building or other premises open to the public, at any reasonable time, for the purpose of determining and verifying compliance with this part and the rules and orders of the board.
- (4) An enforcing authority may declare any container, appliance, equipment, transport, or system that does not conform to the safety requirements of this part or the rules or orders of the board, or that is otherwise defective, as unsafe or dangerous for LPG service, and shall attach a red tag in a conspicuous location.
- (5)
  - (a) A person who knowingly sells, furnishes, delivers, or supplies LPG for storage in, or use or consumption by, or through, a container, appliance, transport, or system to which a red tag is attached is guilty of a class B misdemeanor punishable by a fine of not less than \$100 and not more than \$2,000.
  - (b) Liquefied petroleum gas shall be removed from a container to which a red tag is attached only as provided by rules made by the board.
  - (c) An unauthorized person who knowingly removes, destroys, or in any way obliterates a red tag attached to a container, appliance, transport, or system is guilty of a class B misdemeanor punishable by a fine of not less than \$50 and not more than \$2,000.
  - (d) The enforcing authority may establish and collect a fee for any services or inspections required by this part, the rules made under it, and orders issued by the board. The fee shall be reasonable and may not exceed the amount of the cost of service or inspection provided. Fees collected under this subsection may be retained by the enforcing authority, and shall be applied to the expenses of providing these services.
- (6)
  - (a) Except as provided in Subsection (6)(c), a person who fills a leased container in violation of the terms of a written lease is liable in an action by the container lessor for the greater of:
    - (i) the actual damages to the container lessor, including incidental and consequential damages and attorneys' fees; or
    - (ii) \$500 for each violation.
  - (b)
    - (i) The burden of ascertaining the terms of a written lease for purposes of Subsection (6)(a) is on the person filling the container.
    - (ii) A person has ascertained the terms of a written lease if he has:
      - (A) read the lease;
      - (B) received the assurance of the container owner that the lease does not prohibit the person from filling the container;

- (C) obtained a signed, written statement from the lessee that the written lease does not prohibit the person from filling the container; or
- (D) the leased container is clearly labelled as a container subject to lease terms prohibiting the filling of the container without the lessor's permission.
- (c) If a lessee or lessor misrepresents his ownership or the terms of his written lease under Subsection (6)(b), the lessee or lessor who made the misrepresentation, and not the person filling the tank, is liable for the damages under Subsection (6)(a).
- (7) If a written container lease entered into after May 1, 1992, restricts the right to fill a leased container, the restriction shall be plainly stated in the lease in any manner designed to draw the attention of the lessee to the lease provision, including:
  - (a) typing the restriction in at least two point larger type than the majority of the document type;
  - (b) underlining the restriction; or
  - (c) typing the restriction in boldface type.
- (8) A lessor whose container lease does not comply with Subsection (7) is disqualified from protection under Subsection (6).

Amended by Chapter 324, 2010 General Session