



Stephen Estelle

*Bill Analysis*  
Legislative Service Commission

**H.B. 407**  
127th General Assembly  
(As Introduced)

Reps. R. Hagan, Gerberry

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**BILL SUMMARY**

- Expands the existing sales tax exemption for natural gas sales to include sales of natural gas by an entity that is not a "natural gas company," such as a nonutility gas supplier or a political subdivision aggregating gas purchases for residents.
- Exempts sales of propane gas from sales tax.

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**CONTENT AND OPERATION**

**Expanded sales tax exemption for natural gas**

(R.C. 5739.02(B)(7))

Under current law, the retail sale of natural gas is exempted from the state and county sales taxes only if the gas is sold by a "natural gas company" and is delivered through pipes or conduits. By statutory definition, a natural gas company is a public utility engaged in the business of supplying or distributing natural gas for lighting, power, or heating purposes to consumers within Ohio. "Natural gas company" does not include a governmental aggregator or a "retail natural gas supplier." A government aggregator is a county, township, or municipal corporation that aggregates the provision of natural gas service within the political subdivision through a supplier. A retail natural gas supplier is a company or not-for-profit entity that arranges for the supply of natural gas to customers other than mercantile customers.<sup>1</sup> Such suppliers include natural gas

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<sup>1</sup> In *Chrysler Corp. v. Tracy* (1995), 73 Ohio St.3d 26, the Ohio Supreme Court held that an entity is not a "natural gas company" for purposes of the exemption if it does not actually "supply" natural gas. The entity at issue took title to the natural gas and arranged to transport it through pipelines to its customers, but it did not own or control any physical assets to produce, transport, or distribute the natural gas.

brokers, marketers, and aggregators.<sup>2</sup> (R.C. 4929.01, not in bill.) Generally, such suppliers are nonutilities selling natural gas to consumers through the "customer choice" program, whereby consumers purchase gas from a supplier (which may, but does not need to be, a natural gas company) and the gas is delivered through a natural gas company's distribution system.

The bill exempts natural gas sales from sales tax regardless of whether the gas is sold by a natural gas company. To be exempted, natural gas still must be delivered to the consumer through pipes or conduits.

**New exemption for propane gas**

(R.C. 5739.02(B)(48))

The bill creates a new sales tax exemption for sales to an individual of propane gas. Propane differs from natural gas in that it is a byproduct of natural gas processing and crude oil refining.

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**HISTORY**

ACTION	DATE
Introduced	12-06-07

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<sup>2</sup> A mercantile customer is a consumer of more than 500,000 cubic feet of gas per year at a single location, other than for residential purposes, or a consumer of gas "as part of an undertaking having more than three locations" anywhere, excluding gas for residential purposes. (R.C. 4929.01.)