ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE BILL NO. 1417 By: Fields of the House

and

Easley of the Senate

(oil and gas - amending 52 O.S, Section 420.11 - Liquefied Petroleum Gas Fund - effective date - emergency)

AMENDMENT NO. 1. Page 1, strike the stricken title, enacting clause and entire bill and insert

[oil and gas - liquefied petroleum gas - effective date - emergency]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 1, Chapter 146, O.S.L. 1994 (52 O.S. Supp. 1994, Section 420.20), is amended to read as follows:

Section 420.20 This act shall be known and may be cited as the "Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act", Section 420.20 et seq. of this title.

SECTION 2. AMENDATORY Section 2, Chapter 146, O.S.L. 1994 (52 O.S. Supp. 1994, Section 420.21), is amended to read as follows:

Section 420.21 As used in the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act:

1. "Commission" means the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission;

2. "~~LP gas" means liquefied petroleum gas~~ "First sale" means the first transaction within the State of Oklahoma in which ownership of odorized liquefied petroleum gas transfers from seller to purchaser;

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

4. "Loading rack" means any material handling facility where LPG is loaded into cargo containers, including, but not limited to, gas processing plants, refineries, underground and aboveground bulk storage facilities, pipeline terminals and unattended LPG dispensing facilities;

5. "Loading rack operator" means the owner or any person or entity controlling the day-to-day operations of the facility. When this person or entity is not the person or entity invoicing the first sale of odorized LPG dispensed into a cargo container at a loading rack, the person or entity invoicing the first sale of odorized LPG dispensed into a cargo container at a loading rack shall be considered the loading rack operator; and

~~3.~~ 6. "Person" means any individual, group of individuals, or any partnership, corporation, association, cooperative, or employee thereof, or any other entity.

SECTION 3. AMENDATORY Section 3, Chapter 146, O.S.L. 1994 (52 O.S. Supp. 1994, Section 420.22), is amended to read as follows:

Section 420.22 A. There is hereby created until July 1, 2000, the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission which shall be subject to the provisions of the Oklahoma Sunset Law. The purpose of the Commission is to coordinate

marketing and research activities of the ~~LP gas~~ LPG industry and to promote safety through programs and education.

B. The Commission shall be subject to review and termination under the Oklahoma Sunset Law prior to July 1, 2000, if at least fifty-one percent (51%) of all Class I ~~LP gas~~ LPG permit holders in the state sign a petition requesting such a review. The petition shall be submitted to the Joint Committee on Sunset Review.

SECTION 4. AMENDATORY Section 4, Chapter 146, O.S.L. 1994 (52 O.S. Supp. 1994, Section 420.23), is amended to read as follows:

Section 420.23 A. The Liquefied Petroleum Gas Research, Marketing and Safety Commission shall be composed of at least twelve (12) members. The twelve members shall be ~~LP gas~~ LPG dealers who are holders of a permit from the State Liquefied Petroleum Gas Administration; four to be appointed by the Governor, four to be appointed by the President Pro Tempore of the Senate and four to be appointed by the Speaker of the House of Representatives. The Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives shall make appointments of the ~~LP gas~~ LPG dealers from a list of names submitted by the Oklahoma Propane Gas Association.

B. The members of the Commission shall:

1. Be at least twenty-five (25) years of age;

2. Be a resident of the State of Oklahoma; and

3. Have at least five (5) years of active experience in the ~~LP gas~~ LPG industry.

C. The membership of the Commission shall be distributed geographically so that each quadrant of the state is represented equally. Each appointing authority shall make one appointment from each quadrant of the state. The boundaries of the quadrants shall be Interstate 35 and Interstate 40. A person shall be considered as

representing a quadrant of the state if the person's permanent residence is located in the quadrant.

D. Not more than two members of the Commission shall be employed by or represent the same person, business, corporation or entity or any subsidiary of an entity.

E. The initial term of office for members of the Commission shall be as follows: three members for one (1) year, three members for two (2) years and six members for three (3) years.

For the initial appointments which shall be made by September 1, 1994, each appointing authority shall make one appointment for a one-year term, one appointment for a two-year term and two appointments for three-year terms. Thereafter, the terms of the members shall be for three (3) years.

F. Vacancies shall be filled for the unexpired term of office in the same manner as the original appointment. The dealer members may be removed from office by a majority vote of the three appointing authorities in a manner as provided by law.

G. After October 1, 1994, the members of the Commission appointed pursuant to subsection A of this section may by majority vote appoint a maximum of three members representing companies which provide goods and services to propane dealers. These additional members shall have full voting rights and privileges and will serve three-year terms. They may be removed from the Commission by a majority vote of the ~~LP gas~~ LPG dealer members of the Commission appointed pursuant to subsection A of this section.

H. The Commission shall at its first meeting elect one of its members as chairperson, who shall preside over meetings of the Commission and perform any other duties as may be required by the Commission.

I. No member of the Commission shall receive a salary or reimbursement for duties performed as a member of the Commission,

however members are eligible to receive travel reimbursement as provided in the State Travel Reimbursement Act.

SECTION 5. AMENDATORY Section 5, Chapter 146, O.S.L. 1994, (52 O.S. Supp. 1994, Section 420.24), is amended to read as follows:

Section 420.24 The Commission shall have the power and duty to:

1. Administer and enforce the provisions of the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act;

2. Establish an office for the Commission within the State of Oklahoma;

3. Elect a chairperson and whatever other officers may be necessary to direct operations of the Commission;

4. Employ personnel as shall be deemed necessary to carry out the purpose and provisions of the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act and to prescribe their duties and fix their compensation;

5. Establish and administer the LP Gas Research, Marketing and Safety Revolving Fund;

6. Approve or disapprove the budget of the Commission;

7. Promulgate rules as it deems necessary to carry out the provisions of the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act;

8. Enter into contracts or agreements for studies, research projects, safety programs, experimental work, supplies or other services to carry out the purposes of the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act, and incur those expenses necessary to carry out those purposes. Any contract or agreement shall provide that:

a. the person entering the contract or agreement on behalf of the Commission shall develop and submit to the Commission a plan or project together with a

budget that shows estimated costs to be incurred for the plan or project, and

b. the person entering the contract or agreement shall keep accurate records of all of its transactions, account for funds received and expended, and make periodic reports to the Commission of activities conducted, and any other reports as the Commission may require;

9. Keep accurate records of all financial transactions performed pursuant to the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act. These records shall be audited annually by an independent auditor and an annual report shall be compiled and presented to the Governor;

10. Cooperate with any private, local, state or national commission, organization, agency or group and to make contracts and agreements for joint programs beneficial to the ~~LP gas~~ LPG industry;

11. Accept donations, grants, contributions and gifts from any public or private source and deposit the money in the ~~LP Gas~~ LPG Research, Marketing and Safety Revolving Fund;

12. Approve or disapprove the investment of any monies in the ~~LP Gas~~ LPG Research, Marketing and Safety Revolving Fund pursuant to Section ~~7~~ 420.26 of this ~~act~~ title; and

13. Keep an accurate record of all assessments collected.

SECTION 6. AMENDATORY Section 6, Chapter 146, O.S.L. 1994, (52 O.S. Supp. 1994, Section 420.25), is amended to read as follows:

Section 420.25 A. There shall be an annual meeting of the Commission at which the annual report and proposed budget will be presented. The Commission shall, at the call of the ~~chairperson~~ chair, hold at least three other regular meetings each year. The ~~chairperson~~ chair shall establish the time, a manner and place of all meetings and shall provide notice of such meetings. A majority

of the members of the Commission shall constitute a quorum for the transaction of any business. In addition, the Commission shall determine the circumstances under which additional meetings of the Commission may be held.

B. The Commission may appoint a Director who shall carry out the provisions of the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act. The Director shall not be one of the appointed Commission members.

SECTION 7. AMENDATORY Section 7, Chapter 146, O.S.L. 1994, (52 O.S. Supp. 1994, Section 420.26), is amended to read as follows:

Section 420.26 There is hereby created in the State Treasury a revolving fund for the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission to be designated the "~~LP Gas~~ LPG Research, Marketing and Safety Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received by the Commission from assessments received and collected pursuant to Section ~~8~~ 420.27 of this ~~act~~ title, and donations, grants, contributions and gifts from any public or private source. The Commission may expend funds as provided for by law. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 8. AMENDATORY Section 8, Chapter 146, O.S.L. 1994 (52 O.S. Supp. 1994, Section 420.27), is amended to read as follows:

Section 420.27 A. To fund the activities of the Commission an assessment shall be imposed on the first sale of odorized ~~LP gas~~ LPG. Each operator of a loading rack on delivery into any cargo container shall collect from the person who purchases the odorized

~~LP gas~~ LPG an assessment in an amount of one-half cent ($0.005) per gallon.

B. The assessment shall be computed on the net amount of odorized ~~LP gas~~ LPG delivered into a cargo ~~tank~~ container.

C. Nonodorized LPG shall not be subject to assessment until odorized.

SECTION 9. AMENDATORY Section 9, Chapter 146, O.S.L. 1994, (52 O.S. Supp. 1994, Section 420.28), is amended to read as follows:

Section 420.28 A. Beginning January 1, 1995, each operator of a loading rack shall, on or before the 25th day of the month following the end of each calendar month, file a report with the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission and remit the amount of assessments required to be collected or paid during the preceding month to the Commission, which shall be deposited in the ~~LP Gas~~ LPG Research, Marketing and Safety Revolving Fund.

B. Loading rack operators filing a report or remitting fees later than the 25th day of the month in which fees are due, but within thirty (30) days of the deadline, shall remit a penalty in the amount of five percent (5%) of the amount of fees originally due and payable.

C. Loading rack operators filing a report or remitting fees more than thirty (30) days after the deadline shall remit a penalty in the amount of ten percent (10%) of the fees originally due and payable.

D. An additional penalty of seventy-five percent (75%) of the amount of the fees and penalties due and payable will be added to penalties set forth in subsections B and C of this section if the failure to file a report or to remit the fees collected is determined by the Commission to be a result of fraud or an intent to evade the provisions of this act or the rules of the Commission.

E. The Commission shall be responsible for taking appropriate legal actions to collect any assessment which is not paid or is not properly paid.

SECTION 10. AMENDATORY Section 10, Chapter 146, O.S.L. 1994 (52 O.S. Supp. 1994, Section 420.29), is amended to read as follows:

Section 420.29 A. Any person subject to the assessment levied by Section ~~8~~ 420.27 of this ~~act~~ title may request a refund, as provided for in this section, of the assessment paid on the first sale of odorized ~~LP gas~~ LPG for the preceding calendar year. Upon compliance with the provisions of this section and rules promulgated by the Commission, the Commission shall refund to each person requesting a refund the amount of the assessment paid by or on behalf of such person during the preceding calendar year. Refunds made to persons subject to the assessment shall in turn be refunded by the person to each customer ~~of the person~~ based on the percentage of the total volume of ~~LP gas~~ LPG purchased by each customer. As used in this section, "customer" shall mean the end-user of LPG. Refunds made to persons subject to the assessment will include interest earned at the rate of the preceding calendar year as certified by the State Treasurer.

B. The request for a refund of the assessment for the preceding calendar year must be made during the first calendar month following the calendar year for which the refund is requested. Failure to request a refund during this period shall terminate the right of any person to receive a refund for the assessment paid for the preceding calendar year. The Commission shall give notice of the availability of the refund through press releases or such other means as it deems appropriate.

C. Each person requesting a refund shall execute an affidavit showing the amount of refund requested and the volume of sales of ~~LP gas~~ LPG made by the person to each customer. The ~~Board~~ Commission

may require records to be submitted verifying the volume of sales and may verify the accuracy of the request for refund.

D. No person or company who requests a refund under this section shall be eligible to serve or have a representative serve as a member of the Commission.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 420.29-1 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. No fee shall be collected on any deliveries of odorized LPG destined for export out of this state if the LPG is in continuous movement to a destination outside of this state.

B. Purchasers or representatives of purchasers claiming an exemption under this section must complete a form, provided by the Commission, and return it to the loading rack operator making the exempt delivery. Any purchaser requesting an exemption for a particular load or for all LPG purchased shall complete a form provided by the Commission. Each loading rack operator shall keep all exemptions forms filed with him or her on file and available for inspection by the Commission for a period of four (4) years.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 420.29-2 of Title 52, unless there is created a duplication in numbering, reads as follows:

Any purchaser who pays a fee to a loading rack operator on a load of LPG that is exempt under the provisions of this act may apply to the loading rack operator for a refund of the amount paid. To apply for a refund, the purchaser must complete a refund request form provided by the Commission, and return it to the loading rack operator who collected the fee. Any loading rack operator required to refund a fee to a purchaser shall report the amount of the refund to the Commission. All amounts refunded and reported according to the provisions of this act may be deducted from the total amount of fees collected to arrive at the total amount of fees to be remitted

to the Commission. All refund amounts reported must be supported by refund request forms kept on file by the loading rack operator and be available for inspection by the Commission for a period of four (4) years.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 420.29-3 of Title 52, unless there is created a duplication in numbering, reads as follows:

Any operator of a loading rack may petition the Commission for a refund of fees remitted to the Commission in error by filing the proper form and returning to the Commission. The reason for the refund and supporting documentation must accompany the request.

SECTION 14. AMENDATORY Section 11, Chapter 146, O.S.L. 1994, (52 O.S. Supp. 1994, Section 420.30), is amended to read as follows:

Section 420.30 Nothing in the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act may be construed to preempt or supersede any other program relating to ~~LP gas~~ LPG promotion or marketing organized and operated under the law of the State of Oklahoma or the United States. The provisions of the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act applicable to the rules shall be applicable to amendments to the rules. In the event of the establishment of a national program for an assessment on propane sales, the Commission, by majority vote, may elect to designate up to a maximum of twenty percent (20%) of the funds collected pursuant to the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act to the national program in lieu of an additional assessment as may be required by the national program.

SECTION 15. This act shall become effective July 1, 1995.

SECTION 16. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 10th day of April, 1995.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1995.

Speaker of the House of Representatives