

ENROLLED HOUSE
BILL NO. 1417

By: Fields of the House

and

Easley of the Senate

An Act relating to oil and gas; amending Sections 2, 8, 9 and 10, Chapter 146, O.S.L. 1994 (52 O.S. Supp. 1994, Sections 420.21, 420.27, 420.28 and 420.29), which relate to the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act; modifying and adding certain definitions; modifying certain term; providing for certain penalties; defining person entitled to refund; exempting certain exported LPG from assessment; providing procedure for claiming exemption; allowing refund for certain purchases; providing application procedure for refund; allowing certain operators to petition for refund; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. 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~~ "Cargo container" means any receptacle mounted on a transport vehicle, including a bobtail or semitrailer designed and used for the transportation or storage of liquefied petroleum gas, but shall not include the motor fuel tank of the vehicle;

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

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

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

6. "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 LP gas dispensed into a cargo container at a

loading rack, the person or entity invoicing the first sale of odorized LP gas dispensed into a cargo container at a loading rack shall be considered the loading rack operator; and

~~3.~~ 7. "Person" means any individual, group of individuals, or any partnership, corporation, association, cooperative, or employee thereof, or any other entity.

SECTION 2. 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. Each operator of a loading rack on delivery into any cargo container shall collect from the person who purchases the odorized LP gas 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 delivered into a cargo ~~tank~~ container.

SECTION 3. 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~~ 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 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 4. 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 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 purchased by each customer. ~~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~~ As used in this section, "customer" shall mean the end-user who consumes the LP gas.

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 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 5. 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 LP gas destined for export out of this state if the LP gas 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 LP gas 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 6. 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 LP gas 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 7. 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 8. This act shall become effective July 1, 1995.

SECTION 9. 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 House of Representatives the 22nd day of May, 1995.

Speaker of the House of
Representatives

Passed the Senate the 24th day of May, 1995.

President of the Senate