ENGROSSED HOUSE
BILL NO. 2051

By: Fields of the House

and

Easley of the Senate

An Act relating to oil and gas; amending 52 O.S. 1991, Sections 420.3, as amended by Section 1, Chapter 330, O.S.L. 1994, 420.4, as amended by Section 3, Chapter 330, O.S.L. 1994, 420.6 and 420.8, as amended by Section 5, Chapter 330, O.S.L. 1994 (52 O.S. Supp. 1996, Sections 420.3, 420.4 and 420.8), which relate to liquefied petroleum gas; modifying regular meeting requirement; deleting certain test retaking prohibition; modifying Administrator's authority for suspension or revocation of a registration permit; authorizing the Administrator to issue a fine; providing for deposit of fine; providing for fine in addition to other penalty; and providing an effective date.

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

SECTION 1. AMENDATORY 52 O.S. 1991, Section 420.3, as amended by Section 1, Chapter 330, O.S.L. 1994 (52 O.S. Supp. 1996, Section 420.3), is amended to read as follows:

Section 420.3 A. There is hereby re-created the Oklahoma Liquefied Petroleum Gas Board, hereinafter sometimes referred to as "LP-Gas Board" or "Board". The Board shall be composed of seven (7)

members, one each from the southeastern, northeastern, northwestern and southwestern quarters of the state, one from central Oklahoma, and two from the state at large. Each such appointment shall be made by the Governor, from a list of three or more nominees who have certified in writing their willingness to serve, to be submitted to him by the persons, firms or corporations required to be registered pursuant to the provisions of Sections 420.1 through 420.15 of this title, or by their representatives, and shall be subject to confirmation by the Senate.

B. No person shall be appointed as a member of the Board unless at the time of his appointment he or she has been a legal resident of the State of Oklahoma for at least five (5) years next preceding the date of his or her appointment and, except for the two members at large, shall have actively engaged in the retail distribution of liquefied petroleum gas in Oklahoma for a period of one (1) year, or more. One of the members at large shall be engaged in and representative of the container and appliance phases of the LPG business in Oklahoma, and the other shall have a general familiarity with the regulatory problems of the industry and the consuming public. Provided, however, that the appointment of such public member shall not be subject to the aforementioned list which is required to be submitted to the Governor. Members shall be eligible for reappointment for successive terms, and shall be removable for cause by the Governor. A member shall automatically be disqualified to hold such office in event he or she ceases to be a legal resident of the State of Oklahoma or ceases to be actively engaged in the liquefied petroleum gas business in Oklahoma.

C. Re-creation shall not alter existing membership or terms of office. Members shall serve until their successors in office are duly appointed and qualified. Initial appointments of those members of the Board from the designated geographical areas of the state shall be for terms ranging from one (1) to five (5) years, the

Governor to designate same, and the initial terms of office of the members at large on said Board shall be for one (1) and two (2) years, respectively, as designated by the Governor. Thereafter, the terms of all members shall be for four (4) years. In the event of the death, resignation, disqualification or incapacity of one or more members of said Board, a recess appointment for the unexpired term of each such member may be made by the Governor as hereinabove provided. Members of the Board shall be entitled to be reimbursed for necessary travel expenses as provided in the State Travel Reimbursement Act~~, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes~~.

D. The Board shall organize by electing one of its members as chairman and one member as vice-chairman. ~~Regular meetings of said~~ The Board shall ~~be held monthly~~ hold regular meetings. The date, time and place of any regular meeting shall be as designated by vote of the majority of the membership. Four (4) members of said Board shall constitute a quorum for all purposes. The chairman or vice-chairman may, upon approval of a majority of the members present and voting at any meeting, designate the time, place and date of any scheduled special meeting, and the chairman or vice-chairman shall have the power to call an unscheduled special meeting of the Board upon not less than five (5) days' notice in writing to each member thereof.

E. The standards for the storage and handling of liquefied petroleum gases adopted by the National Fire Protection Association and published in Pamphlet No. 58 including current and subsequent editions and any subsequent changes and/or additions to the pamphlet, and the standards for the installation of gas appliances and gas piping adopted by the National Fire Protection Association and published in Pamphlet No. 54 including the current and any subsequent editions and any subsequent changes and/or additions to the pamphlet shall be the accepted standards for this state. The

said Board is hereby empowered and authorized, and it shall be its duty to prescribe, adopt and promulgate, in the manner set forth in Section 420.1 et seq. of this ~~act~~ title, rules relating to safety in the storage, distribution, dispensing, transporting and utilization of LPG in this state and in the manufacture, fabrication, assembly, sale, installation or use in this state of LPG systems, containers, apparatus or appliances, and reasonable rules governing the issuance of such permits and operations thereunder, and not inconsistent with this act, as it shall deem just and reasonable, and to revoke, amend or supersede such supplementary rules.

F. The Administrator shall administer and enforce all rules formulated and adopted by the Board and administer and enforce the safety rules prescribed, adopted or promulgated by said Board under and by virtue of the provisions of this act, and incur all necessary expenditures in effectuating the purposes of this subsection. The Administrator shall serve as secretary to said Board, and shall be subject to confirmation by the Senate.

G. Before any rules are revised, amended, adopted or promulgated hereunder, the Administrator, acting on behalf of said Board, shall give ten (10) days' notice to all Class I and Class II permit holders under the act, by mailing to the permit holders a written notice, signed by the Administrator, on behalf of the Board, containing either a statement of the terms or substance of the intended action, a description of the subjects and issues involved, or an accurate copy of the new, revised or amended rules which the Board proposes to adopt and promulgate, stating the date, time and place of a public hearing at which oral or written objections to such proposals shall be heard and considered. Notice shall also be given as required by the Administrative Procedures Act~~, Section 250 et seq. of Title 75 of the Oklahoma Statutes~~. Nothing in this subsection shall prevent the furnishing of such other or additional notice as the Board shall direct.

H. At any hearing held under this section, not less than a quorum of said Board shall be present and shall preside; provided, however, that by unanimous vote and resolution the Board may authorize the Administrator to preside at any or all such hearings, and in such event no Board member need be present. After any such hearing the Board may, by majority vote, adopt any proposed new, revised or amended rules with such amendments and modifications thereof as the said Board shall deem just and reasonable, and a certificate reciting such adoption and the effective date thereof shall be signed by the members comprising said majority of said Board. The Administrator shall thereafter, within ten (10) days, cause such rules so adopted to be mailed to each Class I and Class II permit holder under this act.

SECTION 2. AMENDATORY 52 O.S. 1991, Section 420.4, as amended by Section 3, Chapter 330, O.S.L. 1994 (52 O.S. Supp. 1996, Section 420.4), is amended to read as follows:

Section 420.4 A. No person, firm, or corporation shall manufacture, fabricate, assemble, or install in this state any system, container, apparatus, or appliance used or to be used in this state in or for the transportation, storage, dispensing, or utilization of LPG, nor shall any transporter, distributor, or retailer of LPG store, dispense or transport over the highways of this state any LPG intended for use in this state in any such system, container, apparatus, or appliance, without having first applied for and obtained a registration permit to do so. A permit shall not be required by any person, firm, or corporation engaged in the production or manufacture of LPG, or selling or reselling LPG to transporters, processors, distributors, or retailers, nor by any person, firm, or corporation selling or delivering motor vehicles or tractors which are factory equipped with an LPG system, container, apparatus, or appliance for the utilization of LPG as motor fuel. The provisions of this section shall not prevent an individual from

installing in his own single-unit residence any system, container, apparatus, or appliance which uses or will utilize LPG, provided, that such individual has secured an inspection of such installation by the Administrator or someone designated by the Administrator or by a person duly licensed to make such an installation prior to the use of said system, container, apparatus or appliance. Applications for registration permits shall be in writing, on a form provided by the Board, and shall contain such pertinent information as is required by the Board. Upon approval of each said application and receipt of the certificates of insurance or securities required by the provisions of this section, the Administrator shall issue to the applicant a permit to engage in the phase of the liquefied petroleum gas industry in this state to which such permit applies. The permit shall be nontransferable. Nothing in Sections 420.1 through 420.15 of this title shall be construed to regulate the manufacturing, fabrication, assembling, selling, or installing of any system, container, apparatus, or appliance having a fuel container with a maximum individual water capacity of less than two and one-half (2 1/2) pounds.

B. 1. All such registration permits shall expire annually with no permit extending longer than one (1) calendar year. The expiration dates will be set by the Board in the rules. The Administrator may issue a semiannual permit to applicants engaging in the business within six (6) months or less of the annual renewal date. A semiannual permit shall expire on the following annual expiration date. The fee for a semiannual permit shall be one-half (1/2) that of the fee of the annual permit. All registration permits required pursuant to the provisions of this section shall be renewed upon payment of the annual fees on or before the expiration of the registration permit, and upon fulfilling all insurance requirements. The Board is authorized to establish necessary

penalty provisions required to ensure prompt payment of said annual fees.

2. The Board is authorized to establish specifications which set forth the scope of authority for each class of permits.

3. The Board is authorized to establish an initial permit fee for the issuance of Class I and Class II permits to any person, firm or corporation for the first time.

C. Persons, firms, and corporations required to be registered pursuant to the provisions of Sections 420.1 through 420.15 of this title, at the time of issuance of each such permit, shall pay to the Administrator the initial permit fee if applicable and whichever of the following annual fees are applicable to the permit issued:

1. Class I - Dealer Permit - One Hundred Fifty Dollars ($150.00).

2. Class II - Truck Transporter Permit - One Hundred Fifty Dollars ($150.00).

3. Class III - DOT Cylinder Transporter Permit - One Hundred Dollars ($100.00).

4. Class IV - Installer Permit - Thirty-five Dollars ($35.00).

5. Class IV-D - Driver/Installer Permit - Thirty-five Dollars ($35.00).

6. Class V - LPG Carburetion Installer Permit - Fifty Dollars ($50.00).

7. Class VI - DOT Cylinder and/or LP Gas Motor Fuel Station Operator - Seventy Dollars ($70.00).

8. Class VI-A - LP-Gas Dispensing Permit - Five Dollars ($5.00).

9. Class VII - Cylinder Exchange Program Permit - Thirty-five Dollars ($35.00).

10. Class VIII - Appliance Dealer Permit - Thirty-five Dollars ($35.00).

11. Class IX - LPG Container Sales Permit - Thirty-five Dollars ($35.00).

12. Class IX-A - Manufactured Homes and Recreation Sales Permit - Thirty-five Dollars ($35.00).

13. Class X - Manager's Permit - One Hundred Dollars ($100.00).

D. 1. Each person, firm, or corporation holding a permit authorizing the use of an LPG bulk delivery truck or trailer shall pay at the time of inspection an annual inspection fee of One Hundred Twenty Dollars ($120.00) for each said delivery truck or trailer belonging to said person, firm, or corporation. Each person, firm, or corporation who does not hold a permit issued by the Board authorizing the use of an LPG bulk delivery truck or trailer in the state shall pay an annual inspection fee of One Hundred Twenty Dollars ($120.00) for each such truck or trailer belonging to said person, firm, or corporation being used to dispense or transport LPG in the state.

2. The inspection fee shall increase to Two Hundred Forty Dollars ($240.00) per vehicle if said inspection is not completed within sixty (60) days of the expiration date, or at a later date at the discretion of the Administrator.

E. Any LPG bulk delivery truck or trailer failing to be approved at its annual inspection shall be assessed a fee of Twenty-five Dollars ($25.00) at the time that it is reinspected.

F. The fees provided for in this section shall be applicable to residents and nonresidents of Oklahoma.

G. The Board is authorized to approve or disapprove applications for registration permits to distributors and retailers of LPG and managers of LPG establishments. The Administrator is authorized to approve or disapprove all other applications for registration permits that may be issued pursuant to the provisions of this section.

1. No application shall be approved by the Administrator unless the Administrator is satisfied that the applicant by written examination has shown a working knowledge of the safety requirements provided by the rules of the Board.

2. No application shall be approved by the Board unless the Board is satisfied by adequate written examination of the applicant, or the individual who is or shall be directly responsible for actively supervising the operations of such applicant which is a partnership, firm, or corporation, that the applicant or such individual has a working knowledge of the safety requirements provided by the rules of the Board. The Board shall cause to be held public hearings on the second Monday in the months of January, April, July, and October of each year on all applications for new registration permits required by the provisions of this section, or upon such other occasions as the Board may deem necessary. Notice of each hearing shall be mailed to each such applicant and shall be posted in a conspicuous place in the Office of the Administrator in Oklahoma City, Oklahoma, at least thirty (30) days prior to the date of such hearing. Said notice shall include the name, address, permit class, and business location of each applicant whose application is to be considered at the hearing. Such applicant, or the individual who is or shall be directly responsible for and actively supervising the operations of such applicant, shall be present at such hearing before the application will be considered by the Board. If, after the public hearing, an applicant is found by the Board to have a working knowledge of the safety requirements provided by the rules and regulations of the Board, the Board shall cause an order to that effect to be entered upon its records and the application shall be approved. In the event an applicant fails to qualify, said fact shall be entered upon the Board's records.

3. The Board shall charge a fee of Fifty-five Dollars ($55.00) for testing materials and the expense of holding the examinations

provided for in this section. Said fee shall be paid upon filing an application for any permit.

~~4. Any person failing an examination twice in succession shall not be permitted to make application or take examination for the same class permit until six (6) months have elapsed since taking the last test.~~

H. A registration permit shall not be issued to any applicant unless the Administrator has received certificates of insurance or security as required by this section.

I. Except as otherwise provided for in this section, all persons, firms, or corporations engaged in the business of manufacturing, fabricating, assembling, or installing any LPG system, container, apparatus, or appliance in this state, and required to be registered pursuant to the provisions of Sections 420.1 through 420.15 of this title, shall file with the Administrator a certificate indicating liability insurance coverage for the manufacturer and contractor. The Board is authorized to establish coverage amounts for each class of permit, provided coverage shall be for an amount of not less than Twenty-five Thousand Dollars ($25,000.00) to Fifty Thousand Dollars ($50,000.00) for bodily injury and limits of not less than Twenty-five Thousand Dollars ($25,000.00) for property damage, and shall be in full force and effect, covering the plant, equipment, and motor vehicles used in such business, and the operations of the business.

J. Except as otherwise provided for in this section, all transporters, distributors, or retailers of LPG in this state, required to be registered pursuant to Sections 420.1 through 420.15 of this title, shall file with the Administrator a certificate indicating that public liability and property damage insurance coverage has been issued. The Board is authorized to establish coverage amounts for each class of permit, provided coverage shall be for an amount of not less than Twenty-five Thousand Dollars

($25,000.00) to Fifty Thousand Dollars ($50,000.00) for bodily injury and limits of not less than Twenty-five Thousand Dollars ($25,000.00) for property damage has been issued, and is in full force and effect, covering the plant, equipment, and motor vehicles used in such business, and the operations of said business.

K. Insurance pursuant to the provisions of this section shall be maintained in full force and effect during the operation of the business for which the coverage was issued. Except as otherwise provided for in this section, no registration permit shall be issued until said certificate is filed with the Administrator. No insurance coverage shall be canceled or terminated without thirty (30) days prior written notice of cancellation or termination to the Administrator.

L. The Board is authorized, upon proof of or a satisfactory showing that any person, firm, or corporation is financially able to pay or satisfy any judgment, claim, or demand against such person, firm, or corporation, to waive the insurance coverage required by this section. The Board, in lieu of said certificate, may require the deposit, with the Administrator, of securities, or satisfactory indemnity bond, in an amount and of a kind designated by the Board, to secure the liability of such person, firm, or corporation to pay any judgment, claim, or demand. Such security shall not be in excess of the limits set forth in this section. If the Board deems the financial status of such person, firm, or corporation to be impaired so as to reduce the ability of such person, firm, or corporation to make payment or to satisfy any judgment, claim, or demand, the Board may revoke such waiver and require such person, firm, or corporation to file certificates required by this section within thirty (30) days' after written notice is sent by the Board to such person, firm, or corporation.

SECTION 3. AMENDATORY 52 O.S. 1991, Section 420.6, is amended to read as follows:

Section 420.6 (a) The Administrator is ~~empowered and~~ authorized to suspend or revoke any registration permit issued ~~hereunder~~ by the Board, if it ~~shall appear, upon~~ is found at a hearing on the matter, that the registrant has violated or is violating or has failed or is failing to comply with any provisions of Section 420.1 et seq. of this ~~act~~ title, or the rules~~, regulations and/or~~ or specifications promulgated thereunder, or has delivered a lesser quantity of gas than the registrant bills the customer for with intent to defraud.

(b) Upon his or her own motion, or upon the receipt of written complaint from any member of ~~said~~ the Board, or from any deputy administrator or inspector, that a registrant ~~hereunder~~ has violated or is violating or has failed or is failing to comply with any of the provisions of Section 420.1 et seq. of this ~~act~~ title, or the safety rules, regulations and/or specifications promulgated thereunder, the Administrator is authorized ~~and empowered~~ and it shall be his or her duty to hold a public hearing to consider such complaint. The Administrator shall have the power to conduct investigations; to summon and compel the attendance at such hearing of witnesses; to require the production of any records or documents pertinent to the subject matter of any investigation or hearing; and to provide for the taking of depositions of witnesses ~~under~~ in accordance with the rules ~~therefor in effect in~~ for the district courts of this state. Notice of the date, time and place of any such hearing shall be given by registered mail not less than ten (10) days, exclusive of the date of mailing, before the date thereof, addressed to the registrant complained against and to any other parties involved, each of whom shall have the right to file answer, to appear and be heard in person and by counsel, and to present evidence at such hearing.

(c) If the Administrator ~~shall find, at such~~ finds at a hearing~~,~~ that ~~such~~ the registrant has violated or is violating or has failed or is failing to comply with any provision of this act or such

rules~~, regulations and/or~~ or specifications, the Administrator, if the findings justify such action, shall issue an order suspending ~~such~~ the registrant's registration permit for a period not to exceed ninety (90) days, ~~or shall revoke the same, as his findings may justify~~ revoking the registration permit, or imposing a fine of not more than Five Hundred Dollars ($500.00) for each separate offense. Any fine imposed pursuant to this section shall be deposited with the State Treasurer for credit to the General Revenue Fund.

(d) The Administrator's findings, judgment and order shall be reduced to writing and be recorded in a permanent public record to be retained in the office of the Administrator. Copies shall be furnished to the registrant complained against and to the Oklahoma LP-Gas Board. Any registrant whose registration permit is suspended or revoked by the Administrator may, within thirty (30) days after such suspension or revocation, ~~and not thereafter,~~ file an appeal ~~therefrom in~~ with the district court of Oklahoma County or in the county wherein the registrant resides or has its principal place of business in this state, where the matter shall be heard de novo, but the Administrator's order shall be affirmed if supported by substantial evidence. Upon filing of such appeal, enforcement of the Administrator's order shall be stayed pending final disposition of such appeal~~; provided, that upon~~. Upon affirmance, ~~such~~ the order shall ~~forthwith~~ become final and conclusive and ~~such~~ the stay of enforcement shall be vacated.

(e) The Board shall adopt reasonable rules ~~and regulations~~ governing the sale or transfer of business, facilities or a permit connected with or to be used in operations subject to regulation ~~and~~ under this act.

SECTION 4. AMENDATORY 52 O.S. 1991, Section 420.8, as amended by Section 5, Chapter 330, O.S.L. 1994 (52 O.S. Supp. 1996, Section 420.8), is amended to read as follows:

Section 420.8 Any person, firm or corporation violating any of the provisions of Section 420.1 et seq. of this ~~act~~ title, or any rule promulgated thereunder, or installing in this state any liquefied petroleum gas system or appliance which does not comply with such safety rules shall be guilty of a misdemeanor, and upon conviction thereof such person or the responsible members of such firm, or the responsible officers of such corporation, shall, in addition to any fine imposed by the Administrator pursuant to Section 420.6 of this title, be punished by a fine of not less than Five Hundred Dollars ($500.00) or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

SECTION 5. This act shall become effective November 1, 1997.

Passed the House of Representatives the 10th day of March, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate