

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1407

By: Rozell

AS INTRODUCED

An Act relating to Liquefied Petroleum Gas; amending 52 O.S. 2001, Sections 420.4, 420.27 and 420.28, which relate to the Oklahoma Liquefied Petroleum Gas Regulation Act and the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act; defining term; requiring certain entities to maintain records for certain time period; authorizing the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission to audit and inspect records and investigate certain offices, premises or places of business for enforcement purposes; authorizing certain representatives to be present during inspections; requiring Commission to allow reasonable notice prior to inspections; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 52 O.S. 2001, 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.~~ No permit other than the Class I Dealer Permit shall be transferable. 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.

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 2. AMENDATORY 52 O.S. 2001, 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. "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. "Importer" means the owner of odorized liquefied petroleum gas (LP gas) at the time of entry into this state from another state or from outside the United States;

5. "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.~~ 6. "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.~~ 7. "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;

~~7.~~ 8. "Person" means any individual, group of individuals, or any partnership, corporation, association, cooperative, or employee thereof, or any other entity; and

~~8.~~ 9. "Time of import" means the time of entry into the State of Oklahoma from another state or from outside the United States.

SECTION 3. AMENDATORY 52 O.S. 2001, 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 or at the time of import of odorized LP gas into the State of Oklahoma. 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. Each owner of odorized LP gas, at the time of import into this state, shall be responsible for the payment of the one-half cent (\$0.005) per gallon assessment on the volume of LP gas at the time of import.

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

C. Loading rack operators and importers shall maintain sufficient records regarding their operations to enable the Commission to determine whether the loading rack operators and importers have remitted all fees due under the provisions of subsection A of this section. Loading rack operators and importers shall make available such records to the Commission for inspection and shall maintain such records for a minimum of four years.

D. A representative of the Commission may, at reasonable times, enter an office, premises or place of business of a loading rack operator or importer to inspect, examine and obtain copies of the business records maintained pursuant to subsection C of this section, for the purpose of conducting an audit or investigation or enforcing or administering this act. The loading rack operator or importer or their representative is entitled to be present when the Commission representative enters to make inspections and examinations on the premises of the loading rack operator or importer.

E. The Commission shall serve notice to the Oklahoma Liquefied Petroleum Gas Administrator regarding any importer who fails to remit the assessment as required under the provisions of this section. Upon notice and hearing, the Oklahoma Liquefied Petroleum Gas Board may suspend or revoke any registration permit issued to the loading rack operator or importer by the Oklahoma Liquefied Petroleum Gas Board until all assessments and penalties are paid in full.

SECTION 4. AMENDATORY 52 O.S. 2001, Section 420.28, is amended to read as follows:

Section 420.28 A. Each operator of a loading rack or owner of LP gas at the time of import 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 or owners of LP gas at the time of import 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 or owners of LP gas at the time of import 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. At the request of the Commission, the Attorney General is authorized to take any necessary action to collect any fees or penalties due under the provisions of this act.

SECTION 5. This act shall become effective July 1, 2002.

SECTION 6. 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.

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