

ENROLLED HOUSE
BILL NO. 1214

By: Mitchell and Bonny of the
House

and

Morgan and Robinson of the
Senate

An Act relating to the Oklahoma Liquefied Petroleum Gas Board; amending 52 O.S. 2001, Section 420.4, as amended by Section 2, Chapter 202, O.S.L. 2002 (52 O.S. Supp. 2002, Section 420.4), which relates to liquefied petroleum gas registration permits and fees; authorizing the Oklahoma Liquefied Petroleum Gas Board to establish a transfer fee; authorizing the Oklahoma Liquefied Petroleum Gas Board to establish certain annual fees and inspection fees; deleting certain fee amounts; modifying receiver of payment; amending 52 O.S. 2001, Section 420.5, which relates to liquefied petroleum gas container and cylinder fees; authorizing the Board to establish certain container and cylinder fees; deleting certain fee amounts; deleting certain reporting requirements; amending 52 O.S. 2001, Section 420.11, which relates to the disposition of funds and fees; deleting certain expenditure requirements; requiring the Administrator to deposit certain amount in the General Revenue Fund; deleting requirement to deposit funds in the General Revenue Fund; deleting certain transfer requirements; creating the Liquefied Petroleum Gas Fund; providing for expenditure of fund; updating statutory language; making funds and fees collected by the Board exempt from certain law; directing the Administrator and Director of the Office of State Finance to establish a payment schedule; authorizing the Board to promulgate emergency rules; 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, as amended by Section 2, Chapter 202, O.S.L. 2002 (52 O.S. Supp. 2002, 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. No permit other than the Class I Dealer Permit shall be transferable. The Board is authorized to establish a fee for the transfer of a Class I Permit. 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. The Board is authorized to establish an annual permit fee for the issuance of each class of permit listed in subsection C of this section.

2. All such registration permits shall expire annually with no permit extending longer than one (1) calendar year. The expiration dates ~~will~~ shall 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.~~ 3. The Board is authorized to establish specifications which set forth the scope of authority for each class of permits.

~~3.~~ 4. 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~~ any annual fees are fee that is applicable to the following permit issued classes:

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 VI - DOT Cylinder and/or LPG Motor Fuel Station Operator ~~Seventy Dollars (\$70.00).~~;
7. Class VI-A - LPG Dispensing Permit ~~Five Dollars (\$5.00).~~;
8. Class VII - Cylinder Exchange Program Permit ~~Thirty-five Dollars (\$35.00).~~;
9. Class VIII - Appliance Dealer Permit ~~Thirty-five Dollars (\$35.00).~~;
10. Class IX - LPG Container Sales Permit ~~Thirty-five Dollars (\$35.00).~~;
11. Class IX-A - Manufactured Homes and Recreation Sales Permit ~~Thirty-five Dollars (\$35.00).~~; and
12. 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)~~ in an amount as established by the Board 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)~~ in an amount as established by the Board 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)~~ an amount established by the Board 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)~~ in an amount as established by the Board 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)~~, in an amount established by the Board, 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 420.5, is amended to read as follows:

Section 420.5 ~~(a) There are hereby levied the following fees~~
A. The Board is authorized to establish a fee, to be paid to the Administrator, upon the sale, purchase, rental and/or use in this state of liquefied petroleum gas refillable cylinders and all other liquefied petroleum gas containers and/or cylinders.

~~(1) On all I.C.C. cylinders, house trailer containers or cylinders, and vehicle fuel containers, a fee of Three Dollars (\$3.00) each.~~

~~(2) On all other containers, a fee of Seven Dollars and fifty cents (\$7.50) each.~~

~~(b) After the effective date of this act, each B. Each manufacturer of LP-Gas containers in Oklahoma, each vendor of containers manufactured without the state, and each person, firm or corporation placing any LPG container or cylinder in use in this state on which shall pay the applicable fee has not been paid, shall, within ten (10) days following the month in which such sale, rental, purchase or the placing of such container or cylinder in use in this state occurs, furnish to the Administrator a report on a form prescribed by the Administrator, reporting all such sales, rentals, purchases, and/or any such containers or cylinders placed in use in this state during the preceding month, and shall accompany such report with a remittance in the amount of the applicable fees levied under this section; provided, however, that as to. For vendors of containers manufactured without this state, the said fee or fees shall apply and become due upon delivery to such the vendors, or for their account, within the state, of containers or cylinders purchased without the state; and provided, further, that in. In no event shall the fees herein levied be paid or become payable on any container or cylinder sold, rented, purchased or placed in use in this state prior to the effective date of this act, or more than once on any such container or cylinder, or upon any such container or cylinder resold, rerented, repurchased or reused in this state. The Administrator is authorized to refund fees upon containers sold without the state upon which such the fees have previously been paid, or any such fees which have erroneously been paid, upon written application supported by affidavit setting forth the basis for such refund. The Administrator is authorized to adopt a system of identification of containers on which the fees herein levied have been paid.~~

~~(c) C. No person, firm or corporation shall use or install in this state any container or cylinder upon which the applicable fee levied above applies and has not been paid. In case of failure to pay within the specified time, there shall be assessed a penalty of twenty-five percent (25%), which shall be added to the applicable fee.~~

SECTION 3. AMENDATORY 52 O.S. 2001, Section 420.11, is amended to read as follows:

Section 420.11 ~~(a) A.~~ A. All funds and/or fees, from whatsoever source derived, collected by the Administrator under the provisions of ~~Chapter 8~~ Section 420.1 et seq. of this title, shall be ~~paid daily deposited~~ into the State Treasury, and the State Treasurer shall credit same to the Liquefied Petroleum Gas Fund, which fund is hereby created in this section. Effective July 1, 2004, and for each fiscal year thereafter, the Administrator shall deposit twenty percent (20%) of the total amount collected from fees and funds by the Administrator to the credit of the General Revenue Fund of the State Treasury. The Administrator and/or the Board are hereby vested and empowered with the authority to make any and all necessary expenditures from ~~said the~~ the fund ~~as are that~~ in their judgment are reasonable and required to effectuate the purposes of

this act. ~~All expenditures from said Liquefied Petroleum Gas Fund shall be made under appropriations duly made and provided by statute, and shall be paid by the State Treasurer on warrants issued on vouchers approved by the Administrator.~~ The Administrator shall annually file with the Governor a report of his all activities of the fund, which shall include a statement of all receipts and disbursements.

~~(b) Beginning July 1, 1984, all funds and/or fees collected by the Administrator under the provisions of Chapter 8 of this title shall be deposited with the State Treasurer for credit to the General Revenue Fund of the state. On July 1, 1984, any unappropriated balance remaining in the Liquefied Petroleum Gas Fund shall be transferred to the credit of the General Revenue Fund of the state. Any unexpended funds remaining in the Liquefied Petroleum Gas Fund after November 15, 1984, shall be transferred to the credit of the General Revenue Fund of the state.~~

B. There is hereby created in the State Treasury a revolving fund for the Oklahoma Liquefied Petroleum Gas Board to be designated the Liquefied Petroleum Gas Fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Liquefied Petroleum Gas Board as provided for in this section. 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.

C. Section 211 of Title 62 of the Oklahoma Statutes shall not apply to the funds and fees collected by the Liquefied Petroleum Gas Board.

SECTION 4. For the fiscal year ending June 30, 2004, the Administrator of the Liquefied Petroleum Gas Board and the Director of the Office of State Finance shall establish a schedule of payments whereby the Administrator shall transfer One Hundred Ninety-three Thousand Three Hundred Eighty Dollars (\$193,380.00) to the State General Revenue Fund of the State Treasury.

SECTION 5. For the fiscal year ending June 30, 2004, the Liquefied Petroleum Gas Board is hereby authorized to promulgate emergency rules for the purpose of establishing fees pursuant to this act.

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.

Passed the House of Representatives the 21st day of May, 2003.

Presiding Officer of the House of
Representatives

Passed the Senate the 23rd day of May, 2003.

Presiding Officer of the Senate