

3 **Senate Bill No. 1594**
4 **As Amended**

5 SENATE BILL NO. 1594 - By: LASTER of the Senate and WINCHESTER of
6 the House.

7 [**liquefied petroleum gas - employee qualifications -**
8 **registration permits and fees - revocation of permits -**
9 **emergency]**

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

11 SECTION 1. AMENDATORY 52 O.S. 2001, Section 420.2, as
12 amended by Section 1, Chapter 202, O.S.L. 2002 (52 O.S. Supp. 2005,
13 Section 420.2), is amended to read as follows:

14 Section 420.2 A. There is hereby created a State Liquefied
15 Petroleum Gas Administrator, to be appointed by the Governor from a
16 list of nominees submitted by the Oklahoma Liquefied Petroleum Gas
17 Board, hereinafter created. The appointment shall be subject to
18 confirmation by the Senate. The Administrator shall:

19 1. Receive a salary to be established by the Oklahoma Liquefied
20 Petroleum Gas Board;

21 2. Act in no other official or quasi-official capacity except
22 as herein provided; and

23 3. Serve at the pleasure of the Governor.

24 B. The Administrator, subject to approval of the Board, shall
25 appoint and fix the duties and compensation of employees necessary

1 to perform the duties imposed upon the Oklahoma Liquefied Petroleum
2 Gas Board by law.

3 C. 1. Persons appointed to the positions of Administrator,
4 chief deputy administrator, deputy administrator or safety code
5 enforcement officer shall:

- 6 a. be citizens of the United States,
- 7 b. be legal residents of this state,
- 8 c. be physically, mentally and morally capable of
9 performing the duties imposed upon them pursuant to
10 the Oklahoma Liquefied Petroleum Gas Regulation Act,
- 11 d. not have been convicted of a felony in this state or
12 any other state as established by a national criminal
13 history record check as defined in Section 150.9 of
14 Title 74 of the Oklahoma Statutes, and
- 15 e. after the date of their appointment, not be engaged in
16 any business in this state related to the production,
17 manufacture, distribution, sale, installation or
18 transportation of any of the products or equipment
19 covered by the Oklahoma Liquefied Petroleum Gas
20 Regulation Act.

21 2. Each appointee shall, by education, training and experience,
22 be qualified and competent to perform the duties imposed upon them

1 pursuant to the Oklahoma Liquefied Petroleum Gas Regulation Act,
2 which for:

- 3 a. the Administrator shall include at least two (2)
4 years' experience in positions of responsibility in or
5 connected with the liquefied petroleum gas industry,
- 6 b. the chief deputy administrator and deputy
7 administrators shall include at least one and one-half
8 (1 1/2) years of such experience, and
- 9 c. the safety code enforcement officers shall include at
10 least two (2) years' experience in actual physical
11 installation or inspection of liquefied petroleum gas
12 systems, containers, apparatus or appliances, or
13 installations thereof.

14 3. Before entering upon their duties, appointees shall take the
15 constitutional oath of office.

16 D. In the event of a vacancy in the office of Administrator, or
17 in the event of the absence or disability of the Administrator, the
18 chief deputy administrator is hereby empowered and authorized to
19 perform the duties of the Administrator during the time of such
20 vacancy, absence or disability.

21 SECTION 2. AMENDATORY 52 O.S. 2001, Section 420.3A, is
22 amended to read as follows:

1 Section 420.3A A. A person is not liable for damages ~~caused~~
2 ~~solely by a malfunction or improper operation of a liquefied~~
3 ~~petroleum gas (LPG) system that the person installed or serviced in~~
4 ~~a residential, commercial, or public building if~~ and no legal action
5 shall be commenced or maintained against such person engaged in this
6 state in the business of selling at retail, supplying, handling, or
7 transporting liquefied petroleum gas if the alleged injury, damage,
8 or loss was caused by:

9 1. ~~The person is registered pursuant to the Oklahoma Liquefied~~
10 ~~Petroleum Gas Regulation Act to perform the installation or service;~~

11 2. ~~The person has no control over the operation of the LPG~~
12 ~~system;~~

13 3. ~~The person was not negligent; and~~

14 4. ~~The person did not supply a defective product which was a~~
15 ~~producing cause of harm~~

16 The alteration, modification, or repair of liquefied petroleum
17 gas equipment, containers, or a liquefied petroleum gas appliance if
18 the alteration, modification, or repair was done without the
19 knowledge and consent of the liquefied petroleum gas seller,
20 supplier, handler, or transporter; and

21 2. The liquefied petroleum gas equipment, containers, or a
22 liquefied petroleum gas appliance being used in a manner or for a

1 purpose other than that for which the equipment or appliance was
2 intended.

3 B. This section shall apply only to a ~~cause of action for~~
4 ~~damages arising out of a malfunction or the improper operation of a~~
5 ~~liquefied petroleum gas system that occurs on or after June 8, 1994~~
6 person who complies with the approved standards and rules as
7 outlined in subsection E of Section 420.3 of this title and shall
8 not be deemed to be grossly negligent or willful and wanton.

9 SECTION 3. AMENDATORY 52 O.S. 2001, Section 420.4, as
10 last amended by Section 1, Chapter 395, O.S.L. 2003 (52 O.S. Supp.
11 2005, Section 420.4), is amended to read as follows:

12 Section 420.4 A. No person, firm, or corporation shall
13 manufacture, fabricate, assemble, or install in this state any
14 system, container, apparatus, or appliance used or to be used in
15 this state in or for the transportation, storage, dispensing, or
16 utilization of LPG, nor shall any transporter, distributor, or
17 retailer of LPG store, dispense or transport over the highways of
18 this state any LPG intended for use in this state in any such
19 system, container, apparatus, or appliance, without having first
20 applied for and obtained a registration permit to do so. A permit
21 shall not be required by any person, firm, or corporation engaged in
22 the production or manufacture of LPG, or selling or reselling LPG to
23 transporters, processors, distributors, or retailers, nor by any

1 person, firm, or corporation selling or delivering motor vehicles or
2 tractors which are factory equipped with an LPG system, container,
3 apparatus, or appliance for the utilization of LPG as motor fuel.
4 The provisions of this section shall not prevent an individual from
5 installing in his own single-unit residence any system, container,
6 apparatus, or appliance which uses or will utilize LPG, provided,
7 that such individual has secured an inspection of such installation
8 by the Administrator or someone designated by the Administrator or
9 by a person duly licensed to make such an installation prior to the
10 use of said system, container, apparatus or appliance. Applications
11 for registration permits shall be in writing, on a form provided by
12 the Board, and shall contain such pertinent information as is
13 required by the Board. Upon approval of each said application and
14 receipt of the certificates of insurance or securities required by
15 the provisions of this section, the Administrator shall issue to the
16 applicant a permit to engage in the phase of the liquefied petroleum
17 gas industry in this state to which such permit applies. No permit
18 other than the Class I Dealer Permit shall be transferable. The
19 Board is authorized to establish a fee for the transfer of a Class I
20 Permit. Nothing in Sections 420.1 through 420.15 of this title
21 shall be construed to regulate the manufacturing, fabrication,
22 assembling, selling, or installing of any system, container,
23 apparatus, or appliance having a fuel container with a maximum

1 individual water capacity of less than two and one-half (2 1/2)
2 pounds.

3 B. 1. The Board is authorized to establish an annual permit
4 fee for the issuance of each class of permit listed in subsection C
5 of this section.

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

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

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

1 C. Persons, firms, and corporations required to be registered
2 pursuant to the provisions of Sections 420.1 through 420.15 of this
3 title, at the time of issuance of each permit, shall pay to the
4 Administrator the initial permit fee if applicable and any annual
5 fee that is applicable to the following permit classes:

- 6 1. Class I - Dealer Permit;
- 7 2. Class II - Truck Transporter Permit;
- 8 3. Class III - DOT Cylinder Transporter Permit;
- 9 4. Class IV - Installer Permit;
- 10 5. Class IV-D - Driver/Installer Permit;
- 11 6. Class VI - DOT Cylinder and/or LPG Motor Fuel Station
12 Operator;
- 13 7. Class VI-A - LPG Dispensing Permit;
- 14 8. Class VII - Cylinder Exchange Program Permit;
- 15 9. Class VIII - Appliance Dealer Permit;
- 16 10. Class IX - LPG Container Sales Permit;
- 17 11. Class IX-A - Manufactured Homes and Recreation Sales
18 Permit; and
- 19 12. Class X - Manager's Permit.

20 D. 1. Each person, firm, or corporation holding a permit
21 authorizing the use of an LPG bulk delivery truck or trailer shall
22 pay at the time of inspection an annual inspection fee in an amount
23 as established by the Board for each said delivery truck or trailer

1 belonging to said person, firm, or corporation. Each person, firm,
2 or corporation who does not hold a permit issued by the Board
3 authorizing the use of an LPG bulk delivery truck or trailer in the
4 state shall pay an annual inspection fee in an amount as established
5 by the Board for each such truck or trailer belonging to said
6 person, firm, or corporation being used to dispense or transport LPG
7 in the state.

8 2. The inspection fee shall increase to an amount established
9 by the Board per vehicle if said inspection is not completed within
10 sixty (60) days of the expiration date, or at a later date at the
11 discretion of the Administrator.

12 E. Any LPG bulk delivery truck or trailer failing to be
13 approved at its annual inspection shall be assessed a fee in an
14 amount as established by the Board at the time that it is
15 reinspected.

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

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

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

5 2. No application shall be approved by the Board unless the
6 Board is satisfied by adequate written examination of the applicant,
7 or the individual who is or shall be directly responsible for
8 actively supervising the operations of such applicant which is a
9 partnership, firm, or corporation, that the applicant or such
10 individual has a working knowledge of the safety requirements
11 provided by the rules of the Board. The Board shall cause to be
12 held public hearings on the second Monday in the months of January,
13 April, July, and October of each year on all applications for new
14 registration permits required by the provisions of this section, or
15 upon such other occasions as the Board may deem necessary. Notice
16 of each hearing shall be mailed to each such applicant and shall be
17 posted in a conspicuous place in the Office of the Administrator in
18 Oklahoma City, Oklahoma, at least thirty (30) days prior to the date
19 of such hearing. Said notice shall include the name, address,
20 permit class, and business location of each applicant whose
21 application is to be considered at the hearing. Such applicant, or
22 the individual who is or shall be directly responsible for and
23 actively supervising the operations of such applicant, ~~shall~~ may be

1 present at such hearing ~~before the application will be considered by~~
2 ~~the Board~~. If, after the public hearing, an applicant is found by
3 the Board to have a working knowledge of the safety requirements
4 provided by the rules and regulations of the Board, the Board shall
5 cause an order to that effect to be entered upon its records and the
6 application shall be approved. In the event an applicant fails to
7 qualify, said fact shall be entered upon the Board's records.

8 3. The Board shall charge a fee, in an amount established by
9 the Board, for testing materials and the expense of holding the
10 examinations provided for in this section. Said fee shall be paid
11 upon filing an application for any permit.

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

15 I. Except as otherwise provided for in this section, all
16 persons, firms, or corporations engaged in the business of
17 manufacturing, fabricating, assembling, or installing any LPG
18 system, container, apparatus, or appliance in this state, and
19 required to be registered pursuant to the provisions of Sections
20 420.1 through 420.15 of this title, shall file with the
21 Administrator a certificate indicating liability insurance coverage
22 for the manufacturer and contractor. The Board is authorized to
23 establish coverage amounts for each class of permit, provided

1 coverage shall be for an amount of not less than Twenty-five
2 Thousand Dollars (\$25,000.00) to Fifty Thousand Dollars (\$50,000.00)
3 for bodily injury and limits of not less than Twenty-five Thousand
4 Dollars (\$25,000.00) for property damage, and shall be in full force
5 and effect, covering the plant, equipment, and motor vehicles used
6 in such business, and the operations of the business.

7 J. Except as otherwise provided for in this section, all
8 transporters, distributors, or retailers of LPG in this state,
9 required to be registered pursuant to Sections 420.1 through 420.15
10 of this title, shall file with the Administrator a certificate
11 indicating that public liability and property damage insurance
12 coverage has been issued. The Board is authorized to establish
13 coverage amounts for each class of permit, provided coverage shall
14 be for an amount of not less than Twenty-five Thousand Dollars
15 (\$25,000.00) to Fifty Thousand Dollars (\$50,000.00) for bodily
16 injury and limits of not less than Twenty-five Thousand Dollars
17 (\$25,000.00) for property damage has been issued, and is in full
18 force and effect, covering the plant, equipment, and motor vehicles
19 used in such business, and the operations of said business.

20 K. Insurance pursuant to the provisions of this section shall
21 be maintained in full force and effect during the operation of the
22 business for which the coverage was issued. Except as otherwise
23 provided for in this section, no registration permit shall be issued

1 until said certificate is filed with the Administrator. No
2 insurance coverage shall be canceled or terminated without thirty
3 (30) days prior written notice of cancellation or termination to the
4 Administrator.

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

1 SECTION 4. AMENDATORY 52 O.S. 2001, Section 420.5, as
2 amended by Section 2, Chapter 395, O.S.L. 2003 (52 O.S. Supp. 2005,
3 Section 420.5), is amended to read as follows:

4 Section 420.5 A. The Board is authorized to establish a fee,
5 to be paid to the Administrator, upon the sale, purchase, rental
6 and/or use in this state of liquefied petroleum gas refillable
7 cylinders and all other liquefied petroleum gas containers.

8 B. Each manufacturer of LP-Gas containers in Oklahoma, each
9 vendor of containers manufactured without the state, and each
10 person, firm or corporation placing any LPG container or cylinder in
11 use in this state shall pay the applicable fee. For vendors of
12 containers manufactured without this state, the fee or fees shall
13 apply and become due upon delivery to the vendors, or for their
14 account, within the state, of containers or cylinders purchased
15 without the state. In no event shall the fees herein levied be paid
16 or become payable on any container or cylinder sold, rented,
17 purchased or placed in use in this state prior to the effective date
18 of this act, or more than once on any container or cylinder, or upon
19 any container or cylinder resold, rerented, repurchased or reused in
20 this state. The Administrator is authorized to refund or credit
21 fees upon containers sold without the state upon which the fees have
22 previously been paid, or any fees which have erroneously been paid,
23 upon written application supported by affidavit setting forth the

1 basis for such refund. The Administrator is authorized to adopt a
2 system of identification of containers on which the fees herein
3 levied have been paid.

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

10 SECTION 5. AMENDATORY 52 O.S. 2001, Section 420.6, as
11 amended by Section 3, Chapter 202, O.S.L. 2002 (52 O.S. Supp. 2005,
12 Section 420.6), is amended to read as follows:

13 Section 420.6 A. The State Liquefied Petroleum Gas
14 Administrator is authorized to suspend or revoke any registration
15 permit issued by the Oklahoma Liquefied Petroleum Gas Board or
16 impose an administrative penalty, if it is found at a hearing on the
17 matter, that the registrant has violated or is violating or has
18 failed or is failing to comply with any provisions of the Oklahoma
19 Liquefied Petroleum Gas Regulation Act, any rules or specifications
20 promulgated or any order issued thereto, or has delivered a lesser
21 quantity of gas than the registrant bills the customer for with
22 intent to defraud.

1 B. 1. Upon the motion of the Administrator, or upon the
2 receipt of written complaint from any member of the Board, or from
3 any deputy administrator or safety code enforcement officer, that a
4 registrant has violated or is violating or has failed or is failing
5 to comply with any of the provisions of the Oklahoma Liquefied
6 Petroleum Gas Regulation Act, the rules, or specifications
7 promulgated or any order issued thereto, the Administrator is
8 authorized and it shall be the duty of the Administrator to hold an
9 administrative hearing pursuant to Article II of the Administrative
10 Procedures Act to consider such complaint.

11 2. The Administrator shall have the power to conduct
12 investigations; to summon and compel the attendance at such hearing
13 of witnesses; to require the production of any records or documents
14 pertinent to the subject matter of any investigation or hearing; and
15 to provide for the taking of depositions of witnesses.

16 3. Notice of the date, time and place of any such hearing shall
17 be given by registered mail not less than ten (10) days, exclusive
18 of the date of mailing, before the date thereof, addressed to the
19 registrant complained against and to any other parties involved,
20 each of whom shall have the right to file answer, to appear and be
21 heard in person and by counsel, and to present evidence at such
22 hearing.

1 C. If the Administrator finds at the hearing that the
2 registrant has violated or is violating or has failed or is failing
3 to comply with any provision of the Oklahoma Liquefied Petroleum Gas
4 Regulation Act or such rules, specifications or any order issued
5 thereto, the Administrator, if the findings justify such action,
6 shall issue an order suspending the registrant's registration permit
7 for a period not to exceed ninety (90) days, revoking the
8 registration permit, or imposing an administrative penalty of not
9 more than Five Hundred Dollars (\$500.00) for each separate offense.
10 Any administrative penalty imposed pursuant to this section shall be
11 deposited ~~with the State Treasurer for credit to the General Revenue~~
12 ~~Fund~~ into the Liquefied Petroleum Gas Fund, created pursuant to
13 Section 420.11 of this title.

14 D. 1. The Administrator's findings, judgment and order shall
15 be reduced to writing and be recorded in a permanent public record
16 to be retained in the office of the Administrator. Copies shall be
17 furnished to the registrant complained against and to the Board.

18 2. Any registrant who has been assessed an administrative
19 penalty or whose registration permit is suspended or revoked by the
20 Administrator may, pursuant to Section 317 of Title 75 of the
21 Oklahoma Statutes, file for a rehearing, reopening or
22 reconsideration by the Board. The registrant shall be given the

1 opportunity to request a de novo hearing by the Board. Such
2 decision by the Board shall constitute final action by the Board.

3 3. Any registrant who has been assessed an administrative
4 penalty or whose registration permit has been suspended or revoked
5 upon review by the Board may, within thirty (30) days after such
6 filing, suspension or revocation, file an appeal with the district
7 court of Oklahoma County or in the county wherein the registrant
8 resides or has its principal place of business in this state,
9 pursuant to Article II of the Administrative Procedures Act.

10 E. 1. Except for an emergency as determined by the Board upon
11 the filing of a request for a rehearing, reopening or
12 reconsideration or as determined by the court upon an appeal for
13 judicial review of the order, enforcement of the Administrator's
14 order shall be stayed pending final disposition of such rehearing or
15 appeal.

16 2. Upon affirmance, the order shall become final and conclusive
17 and the stay of enforcement shall be vacated.

18 F. The Board shall promulgate reasonable rules governing the
19 sale or transfer of business, facilities or a permit connected with
20 or to be used in operations subject to regulation pursuant to the
21 Oklahoma Liquefied Petroleum Gas Regulation Act.

22 SECTION 6. It being immediately necessary for the preservation
23 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
3 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-15-06 - DO
4 PASS, As Amended and Coauthored.