HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1474 By: Murphey

COMMITTEE SUBSTITUTE

An Act relating to executive reform; consolidating the Oklahoma Liquefied Petroleum Gas Board into the Corporation Commission; stating meaning of terms; providing for transfer of property, supplies, records, liabilities, funds and employees; stating Legislative intent; requiring appropriate conveyances; providing for the transfer of certain funds; providing for the succession of certain contracts; requiring the Commission to enforce certain rules, acts or orders; amending 52 O.S. 2011, Sections 420.1, 420.3, 420.3A, 420.4, 420.5, 420.6, 420.7, 420.9, 420. 11, as amended by Section 218, Chapter 304, O.S.L. 2012, 420.14 and 420.15 (52 O.S. Supp. 2012, Section 420.11), which relate to the Oklahoma Liquefied Petroleum Gas Regulation Act; deleting references to the Liquefied Petroleum Gas Board and State Liquefied Petroleum Gas Administrator; deleting Board appointment and organization requirements; changing references to the Corporation Commission; updating statutory language; clarifying language; repealing 52 O.S. 2011, Sections 420.2, 420.10 and 420.17, which relate to the Oklahoma Liquefied Petroleum Gas Regulation Act; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 420.18 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. On the effective date of this act, the Oklahoma Liquefied Petroleum Gas Board, sometimes referred to as the LP-Gas Board, is hereby consolidated into the Corporation Commission. Wherever the term Oklahoma Liquefied Petroleum Gas Board or LP-Gas Board appears within Oklahoma statutes it shall mean the Corporation Commission. Where the term State Liquefied Petroleum Gas Administrator appears within Oklahoma statutes it shall mean the Director of Administration of the Corporation Commission.

B. Except as otherwise provided for in this section, all real property, buildings, furniture, equipment, supplies, records, personnel, assets, current and future liabilities, fund balances, encumbrances, obligations, and indebtedness associated with the Oklahoma Liquefied Petroleum Gas Board shall be transferred to the Corporation Commission.

C. All employees of the Oklahoma Liquefied Petroleum Gas Board on the effective date of this act, including related liabilities for sick leave, annual leave, holidays, unemployment benefits, and workers' compensation benefits accruing prior to the effective date of this act, to such personnel shall be transferred to the

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Corporation Commission as of the effective date of this act. It is the intent of the Legislature that, to the extent possible, the Corporation Commission ensure that the employees retain pay and benefits, as much as possible, including longevity, dependent insurance benefits, seniority, rights, and other privileges or benefits.

D. Appropriate conveyances and other documents shall be executed to effectuate the transfer of property owned by the Oklahoma Liquefied Petroleum Gas Board to the Corporation Commission.

E. Any monies donated or accruing to or in the name of the Oklahoma Liquefied Petroleum Gas Board after the effective date of this act, shall be transferred to the Corporation Commission. Any other monies from appropriations, fees, fines, penalties, or other similar types of monies that accrue in any funds or accounts after the effective date of this act, in the name of the Oklahoma Liquefied Petroleum Gas Board or maintained for the benefit of the Board are transferred to the Corporation Commission.

F. The Corporation Commission shall succeed to any contractual rights and responsibilities incurred by the Oklahoma Liquefied Petroleum Gas Board.

G. The rules, acts, orders, determinations and decisions of the Oklahoma Liquefied Petroleum Gas Board that are in effect on the

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effective date of this act, shall be enforceable by the Corporation Commission until modified or abrogated by the Commission.

SECTION 2. AMENDATORY 52 O.S. 2011, Section 420.1, is amended to read as follows:

Section 420.1 A. The provisions of ~~Chapter 8~~ Sections 420.3 through 420.15 of ~~Title 52 of the Oklahoma Statutes~~ this title shall be known and may be cited as the "Oklahoma Liquefied Petroleum Gas Regulation Act".

B. For purposes of the Oklahoma Liquefied Petroleum Gas Regulation Act~~:~~

~~1. "Administrator" means the State Liquefied Petroleum Gas Administrator;~~

~~2. "Board" means the Oklahoma Liquefied Petroleum Gas Board; and~~

~~3. "Liquefied~~, "liquefied petroleum gases", "LPG", or "LP-Gas" means and includes any material which is composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, normal butane and isobutane, and butylenes.

SECTION 3. AMENDATORY 52 O.S. 2011, 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)~~

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~~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~~

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~~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.~~

~~D. The Board shall organize by electing one of its members as chairman and one member as vice-chairman. The Board shall hold regular meetings. The date, time and place of any regular meeting shall be as designated by vote of the majority of the membership.~~

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~~Four 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~~ Corporation Commission 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 title, rules relating to safety in the storage, distribution, dispensing, transporting and utilization of LPG in this state and in the manner of manufacture, fabrication, assembly, sale, installation or use in this state of LPG systems, containers, apparatus or appliances, and

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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.~~

~~C.~~ B. Before any rules are revised, amended, adopted or promulgated ~~hereunder, the Administrator, acting on behalf of said Board~~ the Corporation Commission, 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~~ Commission 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

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Administrative Procedures Act. Nothing in this subsection shall prevent the furnishing of such other or additional notice as the ~~Board~~ Commission 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.~~

C. After ~~any such~~ a hearing the ~~Board~~ Commission may, by majority vote, adopt any proposed new, revised or amended rules with such amendments and modifications thereof as the ~~said Board~~ Commission 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~~ Commission 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 4. AMENDATORY 52 O.S. 2011, Section 420.3A, is amended to read as follows:

Section 420.3A A. A person is not liable for damages and no legal action shall be commenced or maintained against such person engaged in this state in the business of selling at retail,

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supplying, handling, or transporting liquefied petroleum gas if the alleged injury, damage, or loss was caused by:

1. The alteration, modification, or repair of liquefied petroleum gas equipment, containers, or a liquefied petroleum gas appliance if the alteration, modification, or repair was done without the knowledge and consent of the liquefied petroleum gas seller, supplier, handler, or transporter; and

2. The liquefied petroleum gas equipment, containers, or a liquefied petroleum gas appliance being used in a manner or for a purpose other than that for which the equipment or appliance was intended.

B. This section shall apply only to a person who complies with the approved standards and rules as outlined in ~~subsection E of~~ Section 420.3 of this title and who has not acted in a grossly negligent or willful and wanton manner.

SECTION 5. AMENDATORY 52 O.S. 2011, 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

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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~~ Corporation Commission or someone designated by the ~~Administrator~~ Commission 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~~ Commission, and shall contain such pertinent information as is required by the ~~Board~~ Commission. Upon approval of each said application and receipt of the certificates of insurance or securities required by the provisions of this section, the ~~Administrator~~ Commission shall issue to the applicant a permit to engage in the phase of the liquefied

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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~~ Commission 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~~ Corporation Commission 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 shall be set by the ~~Board~~ Commission in the rules. The ~~Administrator~~ Commission 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

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fulfilling all insurance requirements. The ~~Board~~ Commission is authorized to establish necessary penalty provisions required to ensure prompt payment of said annual fees.

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

4. The ~~Board~~ Commission 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 permit, shall pay to the ~~Administrator~~ Commission the initial permit fee if applicable and any annual fee that is applicable to the following permit classes:

1. Class I - Dealer Permit;

2. Class II - Truck Transporter Permit;

3. Class III - DOT Cylinder Transporter Permit;

4. Class IV - Installer Permit;

5. Class IV-D - Driver/Installer Permit;

6. Class VI - DOT Cylinder and/or LPG Motor Fuel Station Operator;

7. Class VI-A - LPG Dispensing Permit;

8. Class VII - Cylinder Exchange Program Permit;

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9. Class VIII - Appliance Dealer Permit;

10. Class IX - LPG Container Sales Permit;

11. Class IX-A - Manufactured Homes and Recreation Sales Permit; and

12. Class X - Manager's Permit.

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 in an amount as established by the ~~Board~~ Commission 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~~ Commission authorizing the use of an LPG bulk delivery truck or trailer in the state shall pay an annual inspection fee in an amount as established by the ~~Board~~ Commission 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 an amount established by the ~~Board~~ Commission 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~~ Commission.

E. Any LPG bulk delivery truck or trailer failing to be approved at its annual inspection shall be assessed a fee in an

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amount as established by the ~~Board~~ Commission 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~~ Commission 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~~ and 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~~ Commission is satisfied that the applicant by written examination has shown a working knowledge of the safety requirements provided by the rules of the ~~Board~~ Commission.

2. No application shall be approved by the ~~Board~~ Commission unless the ~~Board~~ Commission 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~~ Commission. The ~~Board~~ Commission shall cause to be held public hearings on the second Monday in the months of January, April, July, and October of

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each year on all applications for new registration permits required by the provisions of this section, or upon such other occasions as the ~~Board~~ Commission 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~~ Commission 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, may be present at such hearing. If, after the public hearing, an applicant is found by the ~~Board~~ Commission to have a working knowledge of the safety requirements provided by the rules and regulations of the ~~Board~~ Commission, the ~~Board~~ Commission 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 of the Commission.

3. The ~~Board~~ Commission shall charge a fee, in an amount established by the ~~Board~~ Commission, 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.

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H. A registration permit shall not be issued to any applicant unless the ~~Administrator~~ Commission 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~~ Commission a certificate indicating liability insurance coverage for the manufacturer and contractor. The ~~Board~~ Commission 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~~ Commission a

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certificate indicating that public liability and property damage insurance coverage has been issued. The ~~Board~~ Commission 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~~ Commission. No insurance coverage shall be canceled or terminated without thirty (30) days prior written notice of cancellation or termination to the ~~Administrator~~ Commission.

L. The ~~Board~~ Commission 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~~ Commission, in lieu of

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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~~ Commission, 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~~ Commission 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~~ Commission may revoke such waiver and require such person, firm, or corporation to file certificates required by this section within thirty (30) ~~days'~~ days after written notice is sent by the ~~Board~~ Commission to such person, firm, or corporation.

SECTION 6. AMENDATORY 52 O.S. 2011, Section 420.5, is amended to read as follows:

Section 420.5 A. The ~~Board~~ Corporation Commission 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.

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

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use in this state shall pay the applicable fee. For vendors of containers manufactured without this state, the fee or fees shall apply and become due upon delivery to the vendors, or for their account, within the state, of containers or cylinders purchased without the state. 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 container or cylinder, or upon any container or cylinder resold, rerented, repurchased or reused in this state. The ~~Administrator~~ Commission is authorized to refund or credit fees upon containers sold without the state upon which the fees have previously been paid, or any fees which have erroneously been paid, upon written application supported by affidavit setting forth the basis for such refund. The ~~Administrator~~ Commission is authorized to adopt a system of identification of containers on which the fees herein levied have been paid.

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.

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SECTION 7. AMENDATORY 52 O.S. 2011, Section 420.6, is amended to read as follows:

Section 420.6 A. The ~~State Liquefied Petroleum Gas Administrator~~ Corporation Commission is authorized to suspend or revoke any registration permit issued by the ~~Oklahoma Liquefied Petroleum Gas Board~~ Commission or impose an administrative penalty, if it 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 the Oklahoma Liquefied Petroleum Gas Regulation Act, any rules or specifications promulgated or any order issued thereto, or has delivered a lesser quantity of gas than the registrant bills the customer for with intent to defraud.

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

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2. The ~~Administrator~~ Commission 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.

3. 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~~ Commission finds at the hearing that the registrant has violated or is violating or has failed or is failing to comply with any provision of the Oklahoma Liquefied Petroleum Gas Regulation Act or such rules, specifications or any order issued thereto, the ~~Administrator~~ Commission, if the findings justify such action, shall issue an order suspending the registrant's registration permit for a period not to exceed ninety (90) days, revoking the registration permit, or imposing an administrative penalty of not more than Five Hundred Dollars ($500.00) for each separate offense. Any administrative penalty imposed pursuant to this section shall be deposited into the

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Liquefied Petroleum Gas Fund, created pursuant to Section 420.11 of this title.

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

2. Any registrant who has been assessed an administrative penalty or whose registration permit is suspended or revoked by the ~~Administrator~~ Commission may, pursuant to Section 317 of Title 75 of the Oklahoma Statutes, file for a rehearing, reopening or reconsideration by the ~~Board~~ Commission. ~~The registrant shall be given the opportunity to request a de novo hearing by the Board. Such decision by the Board shall constitute final action by the Board.~~

3. Any registrant who has been assessed an administrative penalty or whose registration permit has been suspended or revoked ~~upon review by the Board~~ may, within thirty (30) days after such filing, suspension or revocation, file an appeal 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, pursuant to Article II of the Administrative Procedures Act.

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

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

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

SECTION 8. AMENDATORY 52 O.S. 2011, Section 420.7, is amended to read as follows:

Section 420.7 A. It shall be the duty of the ~~Administrator~~ Corporation Commission to inspect, or to provide for the inspection of, any LPG systems, containers, apparatus, or appliances installed in this state, and any LPG bulk-delivery trucks or trailers used in this state, whenever in the discretion of the ~~Administrator~~ Commission, any deputy, or any safety code enforcement officer such inspection is necessary to effectuate the purposes of this act. The ~~Administrator~~ Commission and any deputy or safety code enforcement officer of the Commission are hereby severally empowered and

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authorized to enter upon any premises where any such installation is being or has been made to conduct such inspection.

B. The ~~Administrator, under the direction of the Board,~~ Commission shall require proving of metering system to determine the accuracy to be within the manufacturer's tolerance not to exceed plus or minus one percent (1%) at any time. The LPG liquid meter system shall be designed and constructed to provide for applying lead-and-wire seals in such a manner that no modifications or adjustments which would affect the accuracy of deliveries, can be made without mutilating the seal or seals.

C. Every person to whom the ~~Board or the Administrator~~ Commission issues a registration permit as herein provided shall have immediate possession of the permit at all times when engaged in that phase of the LPG business for which the same was issued and shall display the same upon demand of the ~~Administrator, the chief deputy administrator,~~ Commission or any deputy ~~administrator~~ or safety code enforcement officer of the Commission.

D. The ~~Administrator and the chief deputy administrator,~~ Commission and such deputies and safety code enforcement officers as the ~~Administrator~~ Commission shall by appropriate written commission appoint, shall have all of the powers and authority of peace officers of this state in making arrests for violations of this act or the safety rules promulgated thereunder, or in serving any

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process, notice or order connected with the enforcement of this act issued by the ~~Administrator~~ Commission.

E. The ~~Administrator, the chief deputy administrator~~ Commission and any deputy ~~administrator~~ or safety code enforcement officer of the Commission are hereby empowered and authorized to sign complaints against and to cause the arrest of any person charged with a violation or violations of this act or the safety rules promulgated thereunder. In the event the district attorney fails or refuses to draw or endorse any complaint submitted to the district attorney and the complainant~~, whether it be the Administrator, the chief deputy administrator or any deputy administrator or safety code enforcement officer,~~ desires to secure prosecution of the complaint, then and in that event any court of competent jurisdiction shall be authorized to issue a warrant for the arrest of the person charged in the complaint and the complainant shall not be required to file with the court the bond provided to be filed with and approved by the court in Sections 231 through 233 of Title 22 of the Oklahoma Statutes.

F. The ~~Administrator~~ Commission and any deputy or safety code enforcement officer of the Commission are hereby severally empowered and authorized to condemn any liquefied petroleum gas system, container, apparatus or appliance in this state not manufactured, fabricated, assembled or installed in accordance with the safety

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rules adopted or promulgated under this act, and shall have the authority to forbid the use of any such system, container, apparatus or appliance unless and until the same have been made to comply in all respects with such safety rules.

G. The ~~Administrator~~ Commission is hereby empowered and authorized to inspect or cause the inspection of the records of any person, firm or corporation pertaining to the installation by such person, firm or corporation of liquefied petroleum gas systems, containers, apparatus or appliances in this state.

H. The Attorney General of the State of Oklahoma shall appear and represent the ~~Administrator and the Board and members thereof, or any of them,~~ Commission in all litigation or other proceedings that may arise in the discharge of duties and shall, at the request of the ~~Administrator~~ Commission, assist the district attorney in prosecuting charges of violations of this act.

SECTION 9. AMENDATORY 52 O.S. 2011, Section 420.9, is amended to read as follows:

Section 420.9 A. All liquefied petroleum gases designated as commercial propane, commercial butane, or mixtures thereof, sold for consumption in this state, shall, when subjected to the test methods of the Gas Processors Association of America, meet applicable specifications adopted as tentative standards by said Association for the particular product sold.

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B. All vehicles used in hauling or transporting liquefied petroleum gases upon the highways of this state shall be identified in such manner as the ~~Administrator~~ Corporation Commission may, by rule, prescribe.

C. The Department of Public Safety of the State of Oklahoma shall cooperate with the ~~Administrator~~ Commission in the enforcement of the provisions of this section, and the rules promulgated thereunder.

D. Transport trucks transporting liquefied petroleum gases intrastate which are owned or operated by a person subject to and licensed by the Oklahoma Liquefied Petroleum Gas Regulation Act shall not be required to obtain or possess an intrastate motor carrier or private carrier license issued by the ~~Oklahoma Corporation~~ Commission.

E. Transport trucks transporting liquefied petroleum gases out of the state, but not required to bear Oklahoma license, shall not be subject to the permit fees prescribed by the Oklahoma Liquefied Petroleum Gas Regulation Act, but shall be subject to all of the other requirements of the Oklahoma Liquefied Petroleum Gas Regulation Act and any safety rule or specification promulgated thereunder.

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F. Bulk deliveries of liquefied petroleum gases at retail shall be metered in accordance with rules promulgated by the ~~LP-Gas Board~~ Commission.

G. Containers shall be filled or used only upon authorization of the fee simple owner. The name of the fee simple owner, if other than the consumer, shall be conspicuously shown on the container.

H. At least one attendant shall remain close to the transfer connection from the time the connections are first made until they are finally disconnected, during the transfer of the product. During the actual transfer of liquids into containers at domestic type dwellings and installations, the attendant shall not enter into any type of enclosure including but not limited to truck cabs, dwellings, and barns and shall maintain visual contact with the liquid level gauge at all times.

SECTION 10. AMENDATORY 52 O.S. 2011, Section 420.11, as amended by Section 218, Chapter 304, O.S.L. 2012 (52 O.S. Supp. 2012, Section 420.11), is amended to read as follows:

Section 420.11 A. All funds and fees, from whatsoever source derived, collected by the ~~Administrator~~ Corporation Commission under the provisions of ~~Section 420.1 et seq. of this title,~~ the Oklahoma Liquefied Petroleum Gas Regulation Act shall be deposited into the Liquefied Petroleum Gas Fund, created in this section. ~~Effective July 1, 2004, and for each~~ Each fiscal year ~~thereafter~~, the

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~~Administrator~~ Commission shall deposit ten percent (10%) of the total amount collected from fees and funds by the ~~Administrator~~ Commission to the credit of the General Revenue Fund of the State Treasury. The ~~Administrator and the Board are~~ Commission is hereby vested and empowered with the authority to make any and all necessary expenditures from the fund that in their judgment are reasonable and required to effectuate the purposes of this act. The ~~Administrator~~ Commission shall annually file with the Governor a report of all activities of the fund, which shall include a statement of all receipts and disbursements.

B. There is hereby created in the State Treasury a revolving fund for the ~~Oklahoma Liquefied Petroleum Gas Board~~ Corporation Commission 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~~ Commission 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 the Office of Management and Enterprise Services 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~~ Commission.

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SECTION 11. AMENDATORY 52 O.S. 2011, Section 420.14, is amended to read as follows:

Section 420.14 The ~~State Liquefied Petroleum Gas Administrator~~ Corporation Commission shall not issue or renew any registration permit or license to any person, firm, or corporation who is a resident of, or whose principal place of business is located in, a state other than Oklahoma unless the laws of such other state, and the rules and regulations of the authority governing the storage and dispensing of liquefied petroleum gas permit the operation of such business by citizens, firms, or corporations of Oklahoma under the same or substantially similar terms and conditions as those required for such operation in this state.

SECTION 12. AMENDATORY 52 O.S. 2011, Section 420.15, is amended to read as follows:

Section 420.15 The ~~LP-Gas Board~~ Corporation Commission shall provide for the holding of safety schools for the benefit of the liquefied petroleum gas dealers and employees in the State of Oklahoma, at such times and in such places as may be deemed advisable and may, by lawfully adopted rules, require attendance and successful completion of courses held as a condition precedent to retaining permits issued hereunder. ~~The Administrator shall perform such duties in connection with those schools as the Board might direct.~~

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SECTION 13. REPEALER 52 O.S. 2011, Sections 420.2, 420.10 and 420.17, are hereby repealed.

SECTION 14. This act shall become effective July 1, 2013.

SECTION 15. 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.

COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION, dated 03/04/2013 - DO PASS, As Amended.

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