

CHAPTER 1016

H.B. No. 2007

AN ACT

relating to the regulation of liquefied petroleum gas and of the inspection and testing of liquefied petroleum gas meters; providing penalties.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 113.002(13), Natural Resources Code, is amended to read as follows:

(13) "Person" means any individual, partnership, firm, corporation, association, or any other business entity, *a state agency or institution, county, municipality, school district, or other governmental subdivision.*

SECTION 2. Section 113.003(a), Natural Resources Code, is amended to read as follows:

(a) None of the provisions of this chapter apply to:

(1) the production, refining, or manufacture of LPG;

(2) the storage, sale, or transportation of LPG by pipeline or railroad tank car by a pipeline company, producer, refiner, or manufacturer;

(3) equipment used by a pipeline company, producer, refiner, or manufacturer in a producing, refining, or manufacturing process or in the storage, sale, or transportation by pipeline or railroad tank car;

(4) any deliveries of LPG to another person at the place of production, refining, or manufacturing;

(5) underground storage facilities other than LP-gas containers designed for underground use; *or*

(6) any LP-gas container having a water capacity of 16.4 ounces or less, or to any LP-gas piping system or appliance attached or connected to such container[; ~~or~~

~~[(7) an original manufacturer of a new motor vehicle powered by LPG or a contractor of such a manufacturer who produces a new LPG-powered vehicle].~~

SECTION 3. Section 113.081, Natural Resources Code, is amended by adding Subsections f) and (g) to read as follows:

(f) No license is required by an original manufacturer of a new motor vehicle powered by LPG or subcontractor of such a manufacturer who produces a new LPG-powered vehicle for the manufacturer.

(g) The commission by rule may establish reasonable conditions for licensing and exemptions from license requirements for a state agency or institution, county, municipality, school district, or other governmental subdivision.

SECTION 4. Section 113.082, Natural Resources Code, is amended to read as follows:

Sec. 113.082. CATEGORIES OF LICENSEE; FEES. A prospective licensee in LPG may apply to the LPG division for a license to engage in any one or more of the following categories:

(A) manufacturers/fabricators: the manufacture, fabrication, assembly, repair, installation, subframing, testing, and sale of LPG containers, including LPG motor or mobile fuel containers and systems, and the repair and installation of transport and transfer systems; and the category "A" application and original license fee is an amount not to exceed \$1,000 as determined by the commission; the annual renewal license fee is an amount not to exceed \$600 as determined by the commission;

(B) transport outfitters: the subframing, testing, and sale of LPG transport containers, the testing of LPG storage containers, the installation, testing, and sale of LPG motor or mobile fuel containers and systems, and the installation and repair of transport systems, and motor or mobile fuel systems; the category "B" application and original license fee is an amount not to exceed \$400 as determined by the commission; the annual renewal license fee is an amount not to exceed \$200 as determined by the commission;

(C) carriers: the transportation of LPG by transport, including the loading and unloading of LPG, and the installation and repair of transport systems; the category "C" application and original license fee is an amount not to exceed \$1,000 as determined by the commission; the annual renewal license fee is an amount not to exceed \$300 as determined by the commission;

(D) general installers and repairmen: the sale, service, and installation of containers, excluding motor fuel containers, and the service, installation, and repair of piping, certain appliances as defined by rule, excluding recreational vehicle appliances and LPG systems, excluding motor fuel and recreational vehicle systems; the category "D" application and original license fee is an amount not to exceed \$100 as determined by the commission; the annual renewal license fee is an amount not to exceed \$70 as determined by the commission;

(E) retail and wholesale dealers: the storage, sale, transportation, and distribution of LPG at retail and wholesale, and all other activities included in this section except the manufacture, fabrication, assembly, repair, subframing, and testing of LPG containers; the category "E" application and original license fee is an amount not to exceed \$750 as determined by the commission; the annual renewal license fee is an amount not to exceed \$300 as determined by the commission;

(F) cylinder exchanges: the operation of a cylinder-filling and container exchange dealership, including cylinder filling, the sale of LPG in cylinders, and the replacement of a cylinder valve; the category "F" application and original license fee is an amount not to exceed \$100 as determined by the commission; the annual renewal license fee is an amount not to exceed \$50 as determined by the commission;

(G) service station: the operation of an LPG service station filling ASME containers designed for motor and mobile fuel; the category "G" application and original license fee is an amount not to exceed \$100 as determined by the commission; the annual renewal license fee is an amount not to exceed \$50 as determined by the commission;

(H) cylinder dealers: the transportation and sale of LPG in cylinders; the category "H" application and original license fee is an amount not to exceed \$1,000 as determined by the commission; the annual renewal license fee is an amount not to exceed \$300 as determined by the commission;

(I) service station and cylinder exchanges: any service station and cylinder activity set out in categories "F" and "G" of this section; the category "I" application and original

license fee is an amount not to exceed \$150 as determined by the commission; the annual renewal license fee is an amount not to exceed \$70 as determined by the commission;

(J) service station and cylinder dealerships: the operation of a cylinder-filling and container-exchange dealership, including cylinder filling and the sale, transportation, installation, and connection of LPG in cylinders, the replacement of cylinder valves, and the operation of an LPG service station as set out in category "G"; the category "J" application and original license fee is an amount not to exceed \$1,000 as determined by the commission; the annual renewal license fee is an amount not to exceed \$300 as determined by the commission;

(K) distribution system: the sale and distribution of LPG through mains or pipes and the installation and repair of LPG systems; the category "K" application and original license fee is an amount not to exceed \$1,000 as determined by the commission; the annual renewal license fee is an amount not to exceed \$300 as determined by the commission;

(L) carburetion: the sale and installation of LPG motor or mobile fuel containers, and the sale and installation of LPG motor fuel systems; application and original license fee is an amount not to exceed \$100 as determined by the commission; annual renewal license fee is an amount not to exceed \$50 as determined by the commission;

(M) recreational vehicle installers and repairmen: the sale, service, and installation of recreational vehicle containers, and the installation, repair, and service of recreational vehicle appliances, piping, and LPG systems, including recreational vehicle motor or mobile fuel systems and containers; the category "M" application and original license fee is an amount not to exceed \$100 as determined by the commission; the annual renewal license fee is an amount not to exceed \$70 as determined by the commission;

(N) manufactured housing installers and repairmen: the service and installation of containers that supply fuel to manufactured housing, and the installation, repair, and service of appliances and piping systems for manufactured housing; the category "N" application and original license fee is an amount not to exceed \$100 as determined by the commission; the annual renewal license fee is an amount not to exceed \$70 as determined by the commission;

(O) testing laboratory: the testing of an LP-gas container, *LP-gas motor fuel systems or mobile fuel systems, transfer systems, and transport systems* for the purpose of determining the safety of the container or systems for LP-gas service, including the necessary installation, disconnection, reconnecting, testing, and repair [~~and reconnecting~~] of LPG motor fuel systems or mobile fuel systems, transfer systems, and transport systems involved in the testing of containers; ~~the~~ category "O" application and original license fee is an amount not to exceed \$400 as determined by the commission; the annual renewal license fee is an amount not to exceed \$100 as determined by the commission. A person registered under Section 113.135 on the effective date of this subsection has one year from the effective date of this subsection to apply for a license under this section.

SECTION 5. Section 113.093(g), Natural Resources Code, is amended to read as follows:

(g) At least 15 [30] days before the expiration of a person's license the commission shall notify the person in writing of the impending license expiration and shall attempt to obtain from the person a signed receipt confirming receipt of the notice.

SECTION 6. Section 113.097, Natural Resources Code, is amended to read as follows:

Sec. 113.097. INSURANCE REQUIREMENT. (a) The commission shall not issue a license authorizing activities under Section 113.082 of this code or renew an existing license unless the applicant for license or license renewal provides proof of required insurance coverage with an insurance carrier authorized to do business in this state as evidenced by a certificate of authority having been issued to the carrier by the State Board of Insurance or, if the applicant is unable to obtain coverage from such a carrier, provides, on approval of the commission, proof of required insurance coverage issued by a surplus lines insurer that meets the requirements of Article 1.14-2, Insurance Code, and rules adopted by the State Board of Insurance under that article.

(b) A licensee shall not perform any licensed activity under Section 113.082 of this code unless the insurance coverage required by this chapter is in effect.

(c) Except as provided in Section 113.099 of this code, the types and amounts of insurance provided in Subsections (d) through (i) [~~(g)~~] of this section are required while engaged in any of the activities set forth in Section 113.082 of this code or any activity incidental thereto.

(d) *Each [A] category "C," "E," "H," or "J" licensee must carry motor vehicle bodily injury and property damage liability coverage on each motor vehicle, including trailers and semitrailers, used to transport LP-gas. The commission shall establish by rule a reasonable amount of coverage to be maintained, except that coverage shall not be less than the amounts required as proof of financial responsibility under the Texas Motor Vehicle Safety-Responsibility Act, as amended (Article 6701h, Vernon's Texas Civil Statutes).*

(e) All licensees must carry general liability coverage in a reasonable amount, based on the type or types of licensed activities, which shall be established by commission rule.

(f) All licensees must *acquire and maintain appropriate [carry] workers' compensation[,]* or coverage for its employees under policies of work-related accident, disability, and health insurance, including coverage for death benefits, from an insurance carrier authorized to provide coverage in this state, in the amounts required by the commission [~~including employer's liability coverage~~].

(g) *Notwithstanding Subsection (f) of this section, a state agency or institution, county, municipality, school district, or other governmental subdivision may submit appropriate evidence of workers' compensation coverage by self-insurance if permitted by the state workers' compensation act. The commission may require forms of evidence of coverage for this purpose other than that required under Section 113.098 of this code.*

(h) A category "A," "B," "C," "E," or "O" licensee must carry completed operations and products liability insurance in a reasonable amount, based on the type or types of licensed activities, which shall be established by commission rule.

(i) *The commission by rule may exempt or provide reasonable alternatives to the insurance requirements set forth in Subsections (a) through (e) and (h) of this section for a state agency or institution, county, municipality, school district, or other governmental subdivision.*

SECTION 7. Section 113.099(c), Natural Resources Code, is amended to read as follows:

(c) A licensee or applicant for license that does not employ or contemplate the hiring of an employee or employees to be engaged in LPG-related activities in this state may make and file with the division a statement to that effect in lieu of filing evidence of coverage [~~a certificate~~] of workers' compensation or other alternative form of coverage as provided in this subchapter [~~insurance including employer's liability insurance~~].

SECTION 8. Section 113.131(d), Natural Resources Code, is amended to read as follows:

(d) *The commission, by rule, shall establish reasonable, nonrefundable registration and transfer fees for each LP-gas cargo trailer, semitrailer, bobtail, and cylinder delivery unit registered or transferred.*

(1) *The registration fee established by the commission shall not be less than \$100, nor more than \$300.*

(2) *The transfer fee established by the commission shall not be less than \$25, nor more than \$100. [~~The nonrefundable registration fee for each unit is \$150 a year for any LPG cargo trailer or semitrailer and \$100 a year for any bobtail or cylinder-delivery unit.~~]*

SECTION 9. Chapter 13, Agriculture Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. INSPECTION AND TESTING OF LIQUEFIED PETROLEUM GAS METERS

Sec. 13.301. DEFINITIONS. In this subchapter:

(1) "Person" means any individual, partnership, firm, corporation, association, or any other business entity.

(2) "Liquefied petroleum gas meter" means a device which is used for the measurement of liquefied petroleum gas in a liquid state, whether the device is installed in a permanent location or mounted on a vehicle.

Sec. 13.302. LICENSE REQUIREMENT. (a) A person may not inspect or test liquefied petroleum gas meters unless the person holds a license issued under this subchapter.

(b) The department shall issue a license to a person who meets the requirements of this subchapter.

(c) Each license holder under this subchapter shall conduct inspecting or testing activities in compliance with the rules of the department.

(d) A license holder shall maintain and submit to the department a report and record of all inspecting or testing activities compiled in accordance with the rules of the department.

(e) A license shall not be required of a corporation, partnership, joint venture, or an employee of any such entity which owns or operates a natural gas treatment or extraction facility.

Sec. 13.303. GENERAL REQUIREMENTS FOR LICENSE ISSUANCE OR RENEWAL. Before a license is issued or renewed by the department under this subchapter:

(1) the person applying for the license or renewal of the license shall provide the department proof of completion of a department-approved academic, trade, or professional course of instruction required by the department's rules;

(2) the person shall file with the department an insurance policy or other proof of insurance evidencing that the applicant has a completed operations liability insurance policy issued by an insurance company authorized to do business in this state or by a surplus lines insurer that meets the requirements of Article 1.14-2, Insurance Code, and rules adopted by the State Board of Insurance in an amount set by the department and based on the type of licensed activities to be provided; and

(3) the department, to verify compliance with trade practices, rules of the department, and this chapter, may conduct an inspection of the applicant's:

(A) facilities;

(B) inspecting and testing equipment and procedures;

(C) repair and calibration equipment and procedures; and

(D) transportation equipment.

Sec. 13.304. LICENSE AND RENEWAL; FEES. (a) An application for a license shall be submitted to the department on a form prescribed by the department, accompanied by a nonrefundable annual license fee in an amount established by department rule, not to exceed \$200.

(b) A license issued under this subchapter expires on the anniversary date of the person's test equipment calibration, as such anniversary is defined by a department rule, and may be renewed by filing with the department a renewal application form prescribed by the department, accompanied by a nonrefundable annual license renewal fee in an amount established by department rule, not to exceed \$200.

(c) A person who fails to submit a license renewal fee on or before the expiration date of the license must pay, in addition to the license renewal fee, the late fee provided by Section 12.024 of this code.

Sec. 13.305. DUTIES OF THE DEPARTMENT. (a) The department by rule may adopt a system to periodically monitor and inspect or test scales inspected and tested by the license holder.

(b) The department by rule shall adopt guidelines to allow a representative of the license holder to perform functions of the license holder.

(c) The department by rule may adopt additional requirements for the issuance of a license and for the denial of an application for a license or renewal of a license. The rules adopted by the department shall be designed to protect the public health, safety, and welfare and the proper operation of liquefied petroleum gas meters.

Sec. 13.306. DENIAL, REVOCATION, MODIFICATION, OR SUSPENSION OF LICENSE. (a) The department may refuse to issue a license for inspecting or testing of liquefied gas meters if the applicant fails to comply with this subchapter.

(b) The department shall revoke, modify, or suspend a license, assess an administrative penalty, place on probation a person whose license has been suspended, or reprimand a licensee if the licensee fails to comply with this subchapter or a rule adopted by the department under this subchapter.

(c) If a license suspension is probated, the department may require the person to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the department; or

(3) continue or renew professional education until the person attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

(d) If the department proposed to deny a person's application for a license for inspecting or testing of liquefied gas meters or to revoke, modify, or suspend a person's license, the person is entitled to a hearing before a hearing officer designated by the department. The decision of the department is appealable in the same manner as provided for contested cases under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 13.307. **CIVIL PENALTY; INJUNCTION.** (a) A person who violates this subchapter or a rule adopted under this subchapter is liable to the state for a civil penalty of not less than \$250 nor more than \$10,000 for each violation. Each day a violation continues may be considered a separate violation for purposes of a civil penalty assessment.

(b) On request of the department, the attorney general or the county attorney or district attorney of the county in which the violation is alleged to have occurred shall file suit to collect the penalty.

(c) A civil penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund. All civil penalties recovered in suits first instituted by a local government or governments under this section shall be equally divided between the State of Texas and the local government or governments with 50 percent of the recovery to be paid to the general revenue fund and the other 50 percent equally to the local government or governments first instituting the suit.

(d) The department is entitled to appropriate injunctive relief to prevent or abate a violation of this subchapter or a rule adopted under this subchapter. On request of the department, the attorney general or the county or district attorney of the county in which the alleged violation is threatened or is occurring shall file suit for the injunctive relief. Venue is in the county in which the alleged violation is threatened or is occurring.

Sec. 13.308. **CRIMINAL PENALTY.** (a) An individual commits an offense if the individual is required to be licensed under this subchapter, is not licensed under this subchapter, and performs or offers to perform an inspection or test on a liquefied petroleum gas meter for compensation.

(b) An offense under this section is a Class B misdemeanor.

SECTION 10. Section 12.024(a), Agriculture Code, is amended to read as follows:

(a) This section is applicable only to a renewal fee under Section 13.304, 14.005, 71.043, 71.057, 75.004, 76.044, 76.073, 76.113, or 132.025 of this code.

SECTION 11. This Act takes effect on September 1, 1993.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 4, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 2007 on May 22, 1993, by a non-record vote passed by the Senate, with amendments, on May 18, 1993, by a viva-voce vote

Approved June 19, 1993.

Effective Sept. 1, 1993.