

CHAPTER 325

S.B. No. 1177

AN ACT

relating to regulation of the liquefied petroleum gas industry; providing penalties.

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

SECTION 1. Section 113.002, Liquefied Petroleum Gas Code, as amended, is amended by adding Subdivisions (13) and (14) to read as follows:

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

(14) "Registrant" means any person exempt from the licensing requirements, as established by rule pursuant to Section 113.081 of this code, who is required to register with the commission, any person qualified by examination by the commission, or any person who applies for registration with the commission.

SECTION 2. Section 113.082, Liquefied Petroleum Gas Code, as amended, 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, and sale of LPG containers, including LPG motor fuel containers and systems, and the repair and installation of transport and transfer systems; and 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 and sale of LPG transport containers, the installation and sale of LPG motor fuel containers, and the installation and repair of transport and motor fuel systems; the category "B" application and original license fee is an amount not to exceed \$200 as determined by the commission; the annual renewal license fee is an amount not to exceed \$100 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, and LPG systems, excluding motor fuel systems; ~~[except that the commission may, by rule, exempt journeymen and/or master plumbers duly licensed by the Texas State Board of Plumbing Examiners from this licensing requirement;]~~ 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, and subframing 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* [bottle] exchanges: the operation of a *cylinder-filling* [bottle-filling] and container exchange dealership, including *cylinder* [bottle] filling, [and] the sale of [bottled] 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* [bottle] dealers: the transportation and sale of [bottled] 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* [bottle] exchanges: any service station and *cylinder* [bottle] 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* [bottle] dealerships: the operation of a *cylinder-filling* [bottle-filling] and container-exchange dealership, including *cylinder filling* [bottle filling] and the sale, transportation, installation, and connection of [bottled] 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 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.

SECTION 3. Section 113.087, Liquefied Petroleum Gas Code, as amended, is amended by amending the title and Subsections (d) and (g) and adding Subsection (l) to read as follows:

Sec. 113.087. *COURSE OF INSTRUCTION, EXAMINATION, AND SEMINAR REQUIREMENTS.*

(d) As determined by commission rule, each individual who is or will be utilized by a licensee in LPG-related activities shall be required to provide good and sufficient proof through examination prepared and administered by the commission that the employee has a working knowledge of the safety requirements in the rules of the commission relating to the activity or activities. *Should the commission determine that an individual has a history of failure to comply with the requirements of this code or with the rules of the commission, the commission shall promptly mail written notification of failure to qualify for LP-gas employee certification and the reasons therefor to the registrant. Written notice by the commission, a written request for a hearing, and the public hearing itself shall be governed by Section 113.091 of this code.*

(g) In no event shall an original or renewal license be issued to an applicant whose listed representative has not maintained qualified status, as defined by rule, or to any person who has a history of failure to comply with the requirements of this code or with the rules of the commission. *The commission shall have written notification of license denial and the reasons therefor prepared promptly and mailed to both the representative and the license applicant. Written notice by the commission, a written request for a hearing, and the public hearing itself shall be governed by Section 113.091 of this code [when the representative's required examination was last taken and passed more than five years before the proposed date of license issuance].*

(l) *Prior to qualifying an individual to perform LP-gas work, the commission may establish by rule an initial course of instruction for any person who has not yet passed the category of examination for which the person seeks qualification; for any person who has not maintained qualified status, as defined by rule; and for any person whose certification has been revoked pursuant to Subchapter F of this code. If an initial course of instruction is established by the commission, it shall be available at least once every 90 days.*

SECTION 4. Subsection (a), Section 113.088, Liquefied Petroleum Gas Code, as amended, is amended to read as follows:

(a) The commission shall establish reasonable examination, *course of instruction*, and seminar registration fees.

SECTION 5. Chapter 113, Liquefied Petroleum Gas Code, is amended by adding Section 113.090 to read as follows:

Sec. 113.090. FILING AND REGISTRATION FEES. (a) The commission by rule may establish reasonable fees for the examination of plans and specifications related to the installation of containers when plans and specifications are reviewed by the commission before such installation is placed into LP-gas service.

(b) The commission by rule may establish reasonable fees for recording the location of containers at public buildings and commercial installations when prior approval of plans and specifications is not required.

(c) The commission by rule may establish reasonable fees for any registration required under this code.

SECTION 6. Subsection (a), Section 113.092, Liquefied Petroleum Gas Code, as amended, is amended to read as follows:

(a) The commission shall issue the appropriate license to an applicant who has satisfied the licensing procedures and requirements set out in this chapter and in the rules of the commission, *except where a prior license has been revoked as provided for in Subsection (a) of Section 113.163 of this code.*

SECTION 7. Subsection (a), Section 113.097, Liquefied Petroleum Gas Code, as amended, is amended to read as follows:

(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 such carrier by the State Board of Insurance.*

SECTION 8. Subsection (a), Section 113.098, Liquefied Petroleum Gas Code, as amended, is amended to read as follows:

(a) As evidence that required insurance has been secured and is in force, certificates of insurance *which are approved by the division* shall be filed with the division before licensing, ~~and~~ license renewal, *and during the entire period that the license is in effect. Any document filed with the division in a timely manner which is not completed in accordance with the instructions indicated on the insurance certificate forms supplied by the division, but which complies with the substantive requirements of this section and with the rules adopted under this section may be considered by the division to be evidence that required insurance has been secured and is in force for a temporary period not to exceed 45 days. During this temporary period, a licensee shall file with the division an amended certificate of insurance which complies with all procedural and substantive requirements of this section and the rules adopted hereunder.*

SECTION 9. Subsection (d), Section 113.131, Liquefied Petroleum Gas Code, as amended, is amended to read as follows:

(d) The 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* ~~[bottle-delivery]~~ unit.

SECTION 10. Subsection (a), Section 113.135, Liquefied Petroleum Gas Code, as amended, is amended to read as follows:

(a) Any person that proposes to test any container for the purpose of determining the safety of the container for LP-gas service shall apply for registration with the commission and provide any information the commission shall reasonably require. *The commission shall not issue a registration authorizing activities under this section until the registrant has complied with the insurance requirements pertaining to a category "A" licensee as set out in Sections 113.097 and 113.099 of this code except that no products liability insurance is required. All certificates of insurance filed under this section are subject to the insurance conditions as set out in Section 113.098 of this code. When the terms "licensee," "license," "license renewal," and "entire period that license is in effect" are used in Sections 113.097, 113.098, and 113.099 of this code, they will, for the purpose of this section mean: registrant, registration, registration renewal, and entire period that registration is in effect.*

SECTION 11. Section 113.163, Liquefied Petroleum Gas Code, as amended, is amended to read as follows:

Sec. 113.163. FINDINGS AND JUDGMENT. (a) If the commission finds that the licensee or registrant has violated or failed to comply with or is violating or failing to comply with this chapter or a rule or standard promulgated and adopted under this chapter, or both, the commission may suspend the license or registration for a definite period not to exceed 90 days or may revoke the license or registration. If the commission determines that no violation has occurred or is occurring, its order shall so state. *Whenever a license or registration is revoked by order of the commission, a new license or registration shall not be issued for at least 90 days from the effective date of the order. Such time period shall be stated in the order.*

(b) The commission may place on probation a person whose license or registration has been suspended under Subsection (a) of this section *for a definite period not to exceed one year*, but if the commission does place the licensee or registrant on probation and does allow him to continue to operate, the fact that the license or registration has been suspended and the licensee or registrant has been put on probation shall appear in the records of the commission relating to the suspension and probation.

SECTION 12. Subsections (a) and (b), Section 113.232, Liquefied Petroleum Gas Code, as amended, are amended to read as follows:

(a) In addition to injunctive relief and other penalties provided in this chapter, a person who knowingly violates or fails to comply with this chapter or rules adopted under this chapter is guilty of a *Class C* misdemeanor and is punishable by a fine of not less than *\$100 nor more than the maximum fine as set out in Section 12.23 of the Penal Code* [~~\$25 nor more than \$200~~].

(b) A person previously convicted under Subsection (a) of this section who knowingly violates or fails to comply with this chapter is guilty of a *Class A* misdemeanor punishable by a fine of not less than *the maximum fine allowed by law for a Class C misdemeanor, nor more than the maximum fine as set out in Section 12.21 of the Penal Code* [~~\$200 nor more than \$2,000~~].

SECTION 13. Section 113.234, Liquefied Petroleum Gas Code, as amended, is amended to read as follows:

Sec. 113.234. WARNING TAG. An inspector, employee, or agent of the commission may declare any container, appliance, equipment, transport, [or] system, *or LP-gas operation* that does not conform to the safety requirements of this chapter or rules adopted under this chapter, or which is otherwise defective, as unsafe or dangerous for LP-gas service and shall attach a warning tag in a conspicuous location.

SECTION 14. 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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 11, 1987, by the following vote: Yeas 29, Nays 0. Passed the House on May 27, 1987, by the following vote: Yeas 147, Nays 0, one present not voting.

Approved June 11, 1987.

Effective June 11, 1987.