

STORAGE NAME: h1459a.ft

DATE: April 5, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
FINANCE AND TAXATION
ANALYSIS**

BILL #: HB 1459

RELATING TO: Sale of Liquefied Petroleum Gas

SPONSOR(S): Representative Stansel

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE YEAS 10 NAYS 0
- (2) BUSINESS REGULATION & CONSUMER AFFAIRS (W/D)
- (3) FINANCE AND TAXATION YEAS 12 NAYS 0
- (4) GENERAL GOVERNMENT APPROPRIATIONS
- (5)

I. SUMMARY:

HB 1459 is a substantial rewrite of Chapter 527, Florida Statutes, dealing with liquefied petroleum gas (LP gas). All of the changes are beneficial to public consumers of propane and the industry in terms of knowledge, safety, increased responsibility, and availability of product to the consuming public.

The major changes in the rewrite of Chapter 527, Florida Statutes, include:

- establishing a new category of license to address companies doing both recreational vehicle repair/service and selling gas via a dispensing unit;
- increasing insurance requirements for installers, dealers, and dispensers from \$300,000 to \$1 million minimum general liability insurance;
- providing pro-rated license fees for persons applying during the last six months of the license year at a rate of one-half the original fee;
- restricting wholesalers from providing minimum storage agreements that exceed their maximum storage capacity minus 18,000 gallons; and
- increasing civil penalties with regard to pipeline systems to be consistent with federal penalties as required by federal grant contract.

HB 1459 has no fiscal impact to state or local government and is supported by the industry.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Currently, companies performing work on recreational vehicles and also selling liquefied petroleum (LP) gas are forced to purchase a license and be examined on codes and activities outside the scope of their work, or they are forced to purchase two individual licenses at a higher cost and take two examinations. As the statutes are presently worded, delivery of product to a consumer by transportation is implied, but not specifically addressed.

Florida law requires persons handling LP gas to be properly trained. However, because LP gas dispensers are often located at facilities with limited staff or high turnover, consumers wishing to refill cylinders at these locations are sometimes turned away because trained staff are unavailable to assist them, or the cylinders are refilled by untrained staff, creating a hazardous situation.

Currently, a conflict exists in statutory language between the two types of installers defined in Chapter 527, Florida Statutes. One type of installer allows for the sale of parts, equipment, appliances, etc, and the other (specialty installer) does not. Also, current language does not provide a definition for "wholesaler" with regards to licensing.

Currently, a company with multiple cylinder exchange license renewal applications pays a renewal fee of \$65 for the first 35 renewal applications and \$50 per application for all others. There is no current statutory provision for prorated license fees.

Persons sitting for the gas dealer and gas installer examinations currently have no further requirements for maintaining their qualification other than employment in the industry. However, if they leave the industry for 24 months or more, they are required to sit for the examination again.

Because there are presently no requirements for a "master" qualifier, many industry personnel qualified through the current examination process are not in a position to determine company policy with regard to compliance with state law.

Presently, a minimum of \$300,000 insurance coverage is required in order to have and maintain a license in Florida. Present insurance requirements for cylinder exchange are \$100,000 minimum general liability insurance.

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Current statutory language provides for \$1,000 per violation per day for violations of federal pipeline regulations. The Department of Agriculture and Consumer Services (Department) has a federal grant and is delegated authority to enforce pipeline regulations for LP gas distribution systems in Florida. As part of the grant program, the Department is required to adopt penalties consistent with federal language. The Department has been consistently criticized in federal audits for failing to align the state penalties with the federal law. Subsequently, the Department is penalized in the grant reimbursement they receive.

Presently, the statutes require 12,000 gallons minimum storage capacity in order to hold a gas dealer's license in Florida. There is no mention as to the location of the storage, except that it must be within the state. There is also no mention whether a storage facility must have loading or unloading provisions. The minimum storage requirement is 12,000 gallons water capacity. Companies or wholesalers providing minimum storage agreements to other companies can enter into as many agreements as they wish. As an example, a single wholesaler with only 12,000 gallons of storage on site could potentially guarantee 48,000 gallons of storage by guaranteeing that space to four different companies.

And finally, present statutes require an audit of the Florida Propane Gas Education, Safety, and Research Council (Council) financial records by a certified public accountant.

C. EFFECT OF PROPOSED CHANGES:

The bill creates a separate category, Category IV liquefied petroleum gas dispenser and recreational vehicle servicer for companies who both dispense LP gas and service/repair recreational vehicles. The licensing requirements and fees (\$525 for initial license, \$400 for renewal) for the new category are also established.

The definition of a "category II liquefied petroleum gas dispenser" is amended to allow propane dispensing units to have a storage unit on site to store full cylinders available for exchange in the event trained personnel are not available to fill cylinders when a customer arrives. The definition of a "specialty installer" is amended to clarify the intent of being able to sell or lease propane equipment. A definition for "wholesaler" is included to clarify and provide consistency within the chapter.

The bill establishes a flat fee for renewals of cylinder exchange licenses. This provides an equitable arrangement for both large and small businesses and less of an administrative burden for the Department. The bill also provides for a prorated licensing structure. A provision is created for the transfer of licenses from one license holder to another with a transfer fee of \$50 being established.

The bill provides for the expiration of qualification status three years after the date of issue. It also allows all existing qualification cards to remain in effect until July 1, 2003. The bill also requires gas dealers and gas installers to participate in a minimum of 12 hours of approved continuing education courses, along with a \$20 renewal fee, for renewal of qualification status. Failure to provide documentation of continuing education will result in expiration of the dealers/installers qualification status.

The bill adds the requirement for a master qualifier at each Category I LP gas dealer licensed site. This will ensure that someone with policy-making powers is knowledgeable of state laws governing the safe operation of the propane industry. Criteria for the master qualifier application, examination, renewal, and fees are also provided. Upon successful completion of the master qualifier examination, the department shall issue a certificate of master qualifier status. The bill provides for transferring of a master qualifier from one

company to another. The bill also establishes a time frame whereby a vacancy in a master qualifier position must be replaced or the company's LP gas license will be suspended. The Department is authorized to define approved courses of continuing education.

The bill provides for an increase in the minimum general liability insurance requirements from \$300,000 to \$1 million for all licenses requiring insurance except cylinder exchange. The bill also provides for an increase in the minimum general liability insurance requirements for cylinder exchange cages from \$100,000 to \$300,000. These increases in insurance requirements will ensure increased public protection in the event of an accident.

The bill increases civil penalties for violation of federal pipeline regulations from \$1,000 to \$25,000 per violation per day not to exceed \$500,000 in aggregate. This provision will align state penalties with federal penalties and satisfy the conditions of the grant contract between the state and federal governments.

The bill increases the minimum storage requirements for gas dealers from 12,000 gallons water capacity to 18,000 gallons water capacity and requires the storage to be located within a 75-mile radius of the licensed business location. Bulk plants are required to have loading and unloading provisions. The bill allows dealers to enter into a minimum storage agreement with other dealers. The Department must be notified regarding the agreements and the termination of said agreements. Also, the bill prohibits a wholesaler from entering into a minimum storage agreement that would exceed his overall capacity.

The bill clarifies the exemption set forth for dispensing units and cylinder exchange units from the requirements for minimum storage. These containers are not normally the consumer's primary source of heating and cooking; therefore, guaranteeing a supply is not a critical public health issue.

Finally, the bill removes the statutory requirements for a certified public accountant audit of the Council records. The Council does not receive nor distribute monies. The administration of all funds is under the direct administration of the Department and therefore subject to scrutiny by the Inspector General and Auditor General.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 527.01, F.S., revising definitions.

Section 2: Amends s. 527.02, F.S., providing application and renewal fees for new license categories; establishing pro-rated license fees; eliminating variable fee for cylinder exchange licensees and establishing a flat fee; providing for transfer of licenses from one license holder to another; providing requirements for continuing education; providing expiration of qualification status; providing for renewal of qualification; requiring master qualifier at each Category I LPG dealer licensed site; providing criteria for transfer of master qualifier examination between companies; providing for issuance of a certificate to master qualifiers by the Department; establishing criteria for renewal of master qualifier status; providing for Department approval for courses; establishing a deadline for companies providing information to the Department; establishing criteria for application as a master qualifier; addressing company requirements when a master qualifier transfers or leaves the company; providing time frames for replacement; providing penalties for failure to replace; addressing transfer of master qualifier examinations between companies; requiring protection of confidential examinations; and providing a fee for duplicate master qualifier certificate.

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Section 3: Amends s. 527.04, F.S., increasing minimum general liability insurance requirements.

Section 4: Amends s. 527.06, F.S., increasing penalties for violation of federal pipeline regulations.

Section 5: Amends s. 527.11, F.S., increasing minimum storage requirements for gas dealers from 12,000 gallons water capacity to 18,000 gallons water capacity; requiring storage to be located within a 75-mile radius of the licensed business location; and exempting dispensing units and cylinder exchange units from the requirements for minimum storage.

Section 6: Amends s. 527.22, F.S., removing the statutory requirement for a certified public accountant audit of the Florida Propane Gas Education, Safety, and Research Council records; and providing for review of council records by the Auditor and Inspector Generals.

Section 7: Providing an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

For the proposed statutory language concerning minimum storage, the insurance and licensing requirements will have a negligible impact on the private sector. The majority of these changes are either already being implemented by the industry or the change will have a positive impact financially.

Increased competency standards will enhance performance industry-wide and improve safety for industry employees and the public they serve. Continuing education will ensure that industry is utilizing current codes and regulations and are in compliance with the codes and regulations.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

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AS FURTHER REVISED BY THE COMMITTEE ON Finance and Taxation:

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