

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 815 Sale of Liquefied Petroleum Gas
SPONSOR(S): Agriculture, Conservation & Resiliency Subcommittee, Smith
TIED BILLS: **IDEN./SIM. BILLS:** SB 998

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture, Conservation & Resiliency Subcommittee	14 Y, 0 N, As CS	Gawin	Moore
2) Infrastructure Strategies Committee	23 Y, 0 N	Gawin	Harrington

SUMMARY ANALYSIS

Liquefied petroleum (LP) gas is any material that is composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, butanes, and butylenes. The Department of Agriculture and Consumer Services (DACS) is responsible for licensing individuals and businesses that sell, transport, dispense, or store LP gas or that manufacture, install, service, or repair LP gas containers, systems, or appliances.

To engage in LP gas-related activities such as sales, installations, service and repair work, manufacture of equipment, and other miscellaneous activities, a business must follow certain licensing requirements. Licenses are divided into categories I through VI based on the activity the business is involved in. Every business organization in LP license category I, category II, or category V is required to employ a full-time qualifier who has successfully completed the competency exam in the corresponding category of the license held by the business organization. Additionally, each category I and category V licensee is required, at the time of application for licensure, to identify to DACS one master qualifier who is a full-time employee at the licensed location. As a prerequisite to obtaining a LP gas license, each person who engages in distribution of LP gas for resale to domestic, commercial, or industrial consumers is required to install, own, or lease a bulk storage filling plant of not less than 18,000 gallons (water capacity) within the state and located within a 75-mile radius of the licensed company's business location.

The bill specifies that a category I LP gas dealer license must include one licensed location and may include up to two remote bulk storage locations to meet the minimum bulk storage requirements. In addition, the bill requires a remote bulk storage location to be documented, located within a 75-mile radius of the licensed location, and included in the category I LP gas dealer license application.

The bill revises requirements related to licensed qualifiers, including when a competency exam must be completed and the required qualifications to be employed in certain roles. The bill also specifies that a qualifier may only oversee one location where category I, II, or V LP gas activities are performed and must function in a position with authority to monitor and enforce safety provisions.

The bill authorizes DACS to condemn unsafe equipment and issue an immediate final order requiring the immediate removal of LP gas from storage that does not comply with statutory regulations and is deemed a threat to the public health, safety, and welfare.

The bill specifies what information must be included in work order, invoice, or similar documents when a person services, repairs, maintains, or installs LP gas equipment and systems. Additionally, the bill prohibits a person, other than those authorized by the end user, from adding gas to or removing gas from any container or receptacle that contains LP gas purchased or contracted for transfer by, and in the lawful possession of, the end user. DACS must adopt rules to provide exceptions for emergencies.

The bill may have an insignificant negative fiscal impact on state government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Liquefied Petroleum (LP) Gas

LP gas is any material which is composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, butanes, and butylenes.¹ LP gasses can be used as a fuel gas for heating appliances, cooking, or vehicles. The Department of Agriculture and Consumer Services (DACS) is responsible for licensing individuals and businesses that sell, transport, dispense, or store LP gas or that manufacture, install, service, or repair LP gas containers, systems, or appliances.² DACS also inspects facilities where LP gas is sold or stored and investigates accidents involving LP gas or equipment.³

LP Gas Licensing

To engage in LP gas-related activities such as sales, installations, service and repair work, manufacture of equipment, and other miscellaneous activities, a business must follow certain licensing requirements.⁴ It is a third-degree felony⁵ to intentionally or willfully engage in any LP gas-related activities without first obtaining the appropriate licensure from DACS.⁶ Businesses with multiple locations must have a separate license for each location.⁷ DACS grants licenses to applicants after determining that the applicant is competent, qualified, and trustworthy.⁸ An applicant is required to file a surety bond, insurance affidavit, or other proof of insurance with DACS.⁹

The LP license categories and associated license fees are as follows:¹⁰

License Category	Annual License Fee
Category I LP Gas Dealer	\$400
Category II LP Gas Dispenser	\$400
Category III LP Gas Cylinder Exchange Unit Operator	\$65
Category IV Dealer in Appliances and Equipment	\$65
Category V LP Gas Installer	\$200
Category VI Miscellaneous Operator	\$200

All licenses must be renewed annually, biennially, or triennially at the rates provided for in the above chart.¹¹

¹ Section 527.01(1), F.S.

² Section 527.055, F.S.

³ Section 527.055(3), F.S.

⁴ See ch. 527, F.S.

⁵ A third-degree felony is punishable by up to five years in prison or a fine up to \$5,000. Sections 775.082(3)(e) and 775.083(1)(c), F.S. Additionally, a person who commits three or more felonies is subject to habitual offender sentencing guidelines. See Section 775.084, F.S.

⁶ Section 527.02(1), F.S.

⁷ Section 527.02(2), F.S.

⁸ *Id.* DACS determines lack of trustworthiness as evidenced by an applicant or licensee having a conviction or pleading nolo contendere to a felony involving moral turpitude or an established and repeated history of intentional non-compliance with the applicable safety standards set forth in ch. 527, F.S., or duly adopted rules and regulations of DACS. Rule 5J-20.005, F.A.C.

⁹ *Id.*

¹⁰ Section 527.02(2), F.S.

¹¹ Section 527.03, F.S. When an applicant renews their license biennially or triennially, the rate fee is an accumulation of cost of those years. For example, a Category I LP gas dealer renewing biennially or triennially would pay \$800 or \$1,200, respectively. DACS, *Liquefied Petroleum Gas Licenses*, <https://www.fdacs.gov/Business-Services/LP-Gas-Licenses> (last visited Jan. 10, 2024).

Additionally, a person applying for a license to engage in category I, category II, or category V activities is required to prove competency by passing a written examination administered by DACS or its agent and pass with a grade of 70 percent or above in each tested area.¹²

Any person engaged in the business of servicing, testing, repairing, maintaining, or installing LP gas equipment and systems must initially present proof of licensure to consumers, owners, or end users prior to working on such equipment or system.¹³ Licensure must also be presented when a consumer, owner, end user, or person who has authorized such work requests it.¹⁴

A person, other than the owner or those authorized by the owner, cannot sell, fill, refill, remove gas from, deliver, permit to be delivered, or use in any manner a LP gas container or receptacle for any gas or compound, or for any other purpose.¹⁵

Qualifiers

Every business organization in LP license category I, category II, or category V is required to employ a full-time qualifier¹⁶ who has successfully completed the competency exam in the corresponding category of the license held by the business organization.¹⁷ The qualifier must function in a supervisory capacity of other company employees performing licensed activities,¹⁸ and there must be a separate qualifier for every 10 such employees at the location.¹⁹ A person may not act as a qualifier for more than one licensed location.²⁰

Additionally, each category I and category V licensee is required, at the time of application for licensure, to identify to DACS one master qualifier who is a full-time employee at the licensed location.²¹ To apply to be a master qualifier, the applicant must have a minimum of three years of verifiable LP gas experience or other specified professional certification, must be employed by a licensed category I or category V licensee or applicant for such license, and must pass a master qualifier competency examination administered by DACS.²² The applicant must pass the exam with a grade of 70 percent or higher.²³ The master qualifier must be a manager, owner, or otherwise primarily responsible for overseeing the operations for the licensed location.²⁴

Both qualifiers and master qualifiers are required to earn continuing education credits as part of maintaining their licensure.²⁵

DACS may deny, refuse to renew, suspend, or revoke any qualifier or master qualifier registration for a violation of any provision of ch. 527, F.S., or DACS regulations; falsification of records relating to the qualifier or master qualifier registration; or failure to meet any renewal requirements.²⁶

LP Gas Storage

Chapter 527, F.S., which regulates the sale of LP gas, applies to a bulk storage location when a single container in the bulk storage location has a capacity of 2,000 gallons or more; the aggregate container

¹² Section 527.0201(1), F.S.

¹³ Section 527.067(1), F.S.

¹⁴ *Id.*

¹⁵ Section 527.07, F.S.

¹⁶ “Qualifier” means any person who has passed a competency examination administered by DACS and is employed by a licensed category I, category II, or category V business. Section 527.01(5), F.S.

¹⁷ Section 527.0201(2)(b), F.S.

¹⁸ Section 527.0201(3), F.S.

¹⁹ *Id.*

²⁰ Section 527.0201(2)(b), F.S.

²¹ Section 527.0201(5), F.S.

²² Section 527.0201(5)(a), F.S.

²³ *Id.*

²⁴ *Id.* DACS, *LP Gas Training*, <https://www.fdacs.gov/Business-Services/LP-Gas-Licenses/LP-Gas-Training> (last visited Jan. 10, 2024).

²⁵ Sections 527.0201(3) and 527.0201(5)(c), F.S.

²⁶ Section 527.0201(7), F.S.

capacity of the bulk storage location is 4,000 gallons or more; or a container or containers are installed for the purpose of serving the liquid product to the public.²⁷

As a prerequisite to obtaining a LP gas license, each person who engages in the distribution of LP gas for resale to domestic, commercial, or industrial consumers is required to install, own, or lease a bulk storage filling plant of not less than 18,000 gallons (water capacity) within the state and located within a 75-mile radius of the licensed company's business location.²⁸ Dealers in LP gas who were licensed as of August 31, 2000, and who enter into a written agreement with a wholesaler²⁹ that the wholesaler will provide LP gas to the dealer for a period of 12 continuous months is exempt from these regulations if certain conditions are met.³⁰ A wholesaler may not enter into written agreements that allocate an amount of storage that exceeds the wholesaler's total storage capacity minus 18,000 gallons (water capacity).³¹

Effect of the Bill

The bill defines "licensed location" to mean the premises on which category I, category II, category III, category IV, category V, or category VI LP gas operations are performed, excluding remote bulk storage. Additionally, the bill defines "remote bulk storage" to mean the location of LP gas stored for the sole purpose of filling delivery vehicles used in delivery to an end user.

The bill specifies that a category I LP gas dealer license must include one licensed location and may include up to two remote bulk storage locations. The bill requires a remote bulk storage location to be located within a 75-mile radius of the licensed location and requires the bulk storage location to be included in the category I LP gas dealer license application. Additionally, the bill specifies that each remote bulk storage location of a category I LP gas dealer must comply with the category I LP gas dealer licensing requirements.

The bill specifies that a qualifier examination for competency must be completed within 90 days after the application has been accepted by DACS. In order to apply for certification as a category I or category V qualifier, the bill requires each applicant to have a minimum of one year of verifiable LP gas experience. The bill specifies that a person may not act as a qualifier for more than one location where category I, II, or V LP gas activities are performed. In addition, the bill requires a qualifier for a business to actually function in a position with authority to monitor and enforce safety provisions under ch. 527, F.S., at the licensed location. The bill clarifies that a separate qualifier is required for every 10 employees engaged in LP gas activities.

The bill specifies that a category I or category V licensee must identify one master qualifier who is a full-time employee of the licensee, rather than a full-time employee at the licensed location. A person is prohibited from acting as a master qualifier for more than one license.

The bill authorizes DACS to deny, refuse to renew, suspend, or revoke a qualifier or master qualifier registration if they demonstrate a lack of trustworthiness to engage in activities requiring a qualifier identification card as established by DACS.

The bill authorizes DACS to have the power and authority to condemn unsafe equipment and issue an immediate final order requiring the immediate removal of LP gas from storage that does not comply with ch. 527, F.S., and is deemed a threat to the public health, safety, and welfare.

The bill specifies that the provisions of ch. 527, F.S., apply to LP gas bulk storage locations when the aggregate container capacity of the bulk storage location is more than 4,000 gallons, rather than 4,000 gallons or more.

²⁷ Section 527.0605(1), F.S.

²⁸ Section 527.11(1), F.S.

²⁹ "Wholesaler" means any person selling or offering to sell any LP gas for industrial, commercial, or domestic use to any person except the consumer. Section 527.01(13), F.S.

³⁰ Section 527.11(2), F.S.

³¹ *Id.*

The bill requires all persons engaged in the business of servicing, testing, repairing, maintaining, or installing LP gas equipment and systems to include on all work orders, invoices, or similar documents the name of the person performing the work and the applicable qualifier number.

Additionally, the bill prohibits a person, other than those authorized by the end user, from adding gas to or removing gas from any container or receptacle that contains LP gas purchased or contracted for transfer by, and in the lawful possession of, the end user. DACS must adopt rules to provide exceptions for emergencies.

The bill specifies that every person who engages in the distribution of LP gas for resale to domestic, commercial, or industrial consumers, as a prerequisite to obtaining a LP gas license, must install, own, or lease bulk storage with an aggregate capacity of not less than 18,000 gallons (water capacity) within the state. The bill removes the requirement that such storage must be within a 75-mile radius of the licensed company's business location. Additionally, the bill removes the minimum storage exemption for dealers in LP gas licensed as of August 31, 2000.

The bill prohibits a dealer from entering into written agreements that allocate an amount of storage that exceeds the dealer's total storage capacity minus 18,000 gallons (water capacity).

B. SECTION DIRECTORY:

- Section 1. Amends s. 527.01, F.S., related to sale of LP gas definitions.
- Section 2. Amends s. 527.02, F.S., related to LP licenses.
- Section 3. Amends s. 527.0201, F.S., related to LP qualifiers.
- Section 4. Amends s. 527.055, F.S., related to DACS general powers and duties.
- Section 5. Amends s. 527.0605, F.S., related to LP gas bulk storage locations.
- Section 6. Amends s. 527.067, F.S., related to persons engaged in servicing LP gas equipment and systems.
- Section 7. Amends s. 527.07, F.S., related to restriction on use of containers.
- Section 8. Amends s. 527.11, F.S., related to minimum storage.
- Section 9. Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have an insignificant negative fiscal impact on DACS associated with the rulemaking requirements of the bill that can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DACS to adopt rules to provide exceptions for when a person, other than those authorized by the end user, may add or remove gas in an emergency.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 19, 2024, the Agriculture, Conservation & Resiliency Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Revised the definition of licensed location.
- Specified that a category I LP gas dealer license must include one licensed location in addition to two bulk storage locations.
- Specified that a person may not act as a qualifier for more than one location where category I, II, or V LP gas activities are performed, instead of one licensed or remote bulk storage location.
- Clarified that a separate qualifier is required for every 10 employees engaged in LP gas activities.
- Specified that an additional instance where DACS may deny, refuse to renew, suspend, or revoke a qualifier or master qualifier registration.

This analysis is drafted to the committee substitute as approved of by the Agriculture, Conservation & Resiliency Subcommittee.