

ARKANSAS SENATE
86th General Assembly - Regular Session, 2007
Amendment Form

Subtitle of Senate Bill No. 994

"AN ACT TO CREATE A STATEWIDE PERMIT FOR PROPANE DEALERS."

Amendment No. 1 to Senate Bill No. 994.

Amend Senate Bill No. 994 as originally introduced:

Add Representatives Wells and Breedlove as cosponsors

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 15-75-201(b), concerning the appointment and term of a board member, is amended to read as follows:

(b)(1) There shall be one (1) member appointed by the Governor from each congressional district, as they existed on January 1, 2007.

(2) ~~Terms of office of the six (6) members so appointed shall be six (6) years~~ There shall be three (3) at-large members appointed by the Governor.

(3)(A)(i) ~~The seventh member of the board shall be appointed by the Governor from the state at large for a term of two (2) years~~ A board member appointed before the effective date of this section shall serve the remainder of his or her previously appointed six-year term.

(ii) For a board member appointed after the effective date of this section, the term of office shall be four (4) years.

(B) No board member appointed after the effective date of this section may serve more than two (2) four-year terms.

(4) The board shall have at least one (1) member who:

(A) represents ~~represents~~ Represents the general public; and

(B) who is ~~is~~ not employed by, ~~or~~ engaged in, ~~or~~ retired from the liquefied petroleum gas industry in any manner, ~~nor shall they have retired from it.~~

SECTION 2. Arkansas Code § 15-75-204(b), concerning the term of an officer of the board, is amended to read as follows:

(b) No such officer shall serve in the same capacity for more than one (1) year during ~~any six-year~~ his or her term.

SECTION 3. Arkansas Code § 15-75-206(b), concerning the authority of the Liquefied Petroleum Gas Board, is amended to read as follows:

(b) The ~~board~~ director shall have the authority to:



- (1) Employ assistants, inspectors, and other personnel; and
- (2) Retain counsel as may be necessary to aid it properly in the administration of this subchapter, with the approval of the board.

SECTION 4. Arkansas Code § 15-75-303 is amended to read as follows:
15-75-303. Certification of competency required.

~~(a) No person shall transport, deliver, or handle liquefied petroleum gases or install any container or system, or connect any container to any liquefied petroleum gas system unless and until he or she shall have been certified by the board director who, which shall conduct an examination to determine whether he the person seeking certification has sufficient knowledge and skill to perform the work in a safe and satisfactory manner.~~

~~(b) No certificate or permit shall be required for the storing and handling of portable containers or cylinders constructed in compliance with federal Department of Transportation regulations at cylinder exchange stations set up and established by authorized liquefied petroleum gas dealers as a means of furnishing adequate facilities for the convenient exchange of exhausted containers for fully serviced ones by their customers if:~~

~~(1) The water gallon capacity of any container does not exceed thirty (30) gallons;~~

~~(2) All cylinders are serviced by the authorized dealer at approved cylinder filling plants and transported to the exchange station by accepted methods;~~

~~(3) There is no sale of containers or their contents to the exchange station for resale to the user;~~

~~(4) The exchange station operator is properly instructed by the dealer in the appropriate safety procedures necessary for the operation of the station.~~

SECTION 5. Arkansas Code § 15-75-304 is amended to read as follows:
15-75-304. Certificates of competency - Qualifications.

(a) To be entitled to a "certificate of competency," a person must have:

(1) Satisfactory experience in the liquefied petroleum gas business or must give proof of previous on-the-job training in the liquefied petroleum gas business satisfactory to the Liquefied Petroleum Gas Board as prescribed by its rules and regulations;

(2) Had not less than thirty (30) days' experience in the liquefied petroleum gas installation or transportation business; and

(3) Passed a written or oral examination as prescribed by the board.

~~(b) Persons who have been unemployed in the liquefied petroleum gas business for more than one (1) year must be recertified by the board through a current written or oral examination as prescribed by rules and regulations of the board.~~

~~(c) All new class one employees must attend a forty-hour basic course in liquefied petroleum gas, as prescribed by the board, within the first year of their employment or their certification certificate will be suspended until the course has been completed.~~

~~(d) All class one employees who change from one class one employer to another class one employer who has not previously had the forty-hour basic training course, as prescribed by the board, must do so within one year of~~

~~the transfer date of employment or their certification certificate will be suspended until the course has been completed.~~

~~(e)(c)~~ The board may accept as its own a reciprocal state's transportation and delivery examination for transport drivers only ~~which~~ that contains substantially equivalent requirements as those required by the board. Substantial uniformity shall be demonstrated by a letter from the issuing authority of the state or a copy of a current and valid card issued by the reciprocal state. All applicable fees shall be paid to the board prior to issuance of the certification card.

SECTION 6. Arkansas Code § 15-75-305(f)(2), concerning the qualifications of an applicant for a permit, is amended to read as follows:

(2) Applicants must agree to furnish whatever information the director or the board may require as to their ~~financial condition, character, and~~ ability to engage in the liquefied petroleum gas business and must also furnish whatever references the director or the board may require.

SECTION 7. Arkansas Code § 15-75-306(b), concerning a class one permit, is amended to read as follows:

(b) All class one permit application approvals must have all prerequisites met and the permit issued within ~~six (6) months~~ one (1) year of approval. If not issued within ~~six (6) months~~ one (1) year of approval, the application will be returned to the applicant and a new application must be submitted to the director thirty (30) days prior to the date of the regular meeting at which the review of the director's action on the application is to be considered.

SECTION 8. Arkansas Code § 15-75-307 is amended to read as follows:
15-75-307. Class one permit.

(a) The holder of a class one permit:

(1) May engage in any phase of the liquefied petroleum gas business in any county of this state; ~~and~~

~~(2) Must if he or she pay~~ pays an annual permit fee in the sum of ~~three hundred dollars (\$300)~~ two thousand five hundred dollars (\$2,500); or

(2) May engage in any phase of the liquefied petroleum gas business in a county and contiguous counties if he or she pays an annual fee of:

(A) Three hundred dollars (\$300) for the first county permit; and

(B) One hundred dollars for each contiguous county permit.

(b) An applicant for a class one permit:

(1) ~~Must~~ Shall furnish to the Liquefied Petroleum Gas Board evidence of the following insurance:

(A) Manufacturers' and Contractors' Bodily Injury
Liability Insurance

Each Person \$500,000

Each Accident 500,000

(B) Manufacturers' and Contractors' Property Damage
Liability Insurance

Each Accident \$500,000

Aggregate 500,000

- (C) Products Bodily Injury Liability Insurance
 - Each Person \$500,000
 - Each Accident 500,000
 - Aggregate 500,000
- (D) Products Property Damage Liability Insurance
 - Each Person \$500,000
 - Aggregate 500,000
- (E) Automobile Bodily Injury Liability Insurance
 - Each Person \$500,000
 - Each Accident 500,000
- (F) Automobile Property Damage Liability Insurance
 - Each Accident \$500,000

(2)(A) ~~Must provide a financial statement which has been compiled within the past sixty (60) days by a public accountant~~ Shall designate a county in this state for:

(i) The location of the proposed principal place of business of the applicant; and

(ii) The proposed location of the principal bulk storage tank facility; and

(B) Shall maintain a twenty-four (24) hour emergency telephone number;

(3)(A) Must provide a map outlining the exact territory or area in which the operation is to be conducted.

(B) The territory map shall designate on an approved map three (3) Arkansas counties.

(C)(i) The applicant shall designate within one (1) Arkansas county the location of the proposed principal place of business of the applicant and the proposed location of the principal bulk storage tank facility.

(ii) The designated county shall be the home county area of operation of the applicant.

(D)(i) The application shall designate on the approved map two (2) counties adjoining and contiguous to the home county.

(ii) The two (2) adjoining counties shall be within the area of operation of the applicant, but the applicant shall not be required to locate facilities within those two (2) adjoining counties.

(E) The permit fee shall be paid for each county in which the applicant operates;

(4)(A) ~~Must~~ Shall provide full-time employment of qualified personnel whose competency shall be proven through a current written or oral examination.

(B) There shall be a minimum of three (3) employees.

(C) For each permit, one (1) employee shall be certified as a general safety supervisor and one (1) employee shall be certified as an installation personnel.

(D) One (1) employee may be certified as both transport and delivery/installation, a combination certification, but that combination certification shall not relieve the requirement for a minimum of three (3) employees;

(5)(A) ~~Must~~ Shall provide a bulk storage capacity of not less than thirty thousand (30,000) water gallons at the principal location of the permitted facility, the location of which must be approved by the board in

advance of the application and which must be maintained by the applicant in safe working condition throughout the duration of the permit applied for under penalty of permit forfeiture by action of the board.

(B) Storage containers being used in connection with cotton gins, rice dryers, manufacturing plants, or any other type commercial use, regardless of size, will not be accepted as bulk storage and cannot be included in the requirements for the thirty thousand (30,000) gallons storage-;

(C)(i) ~~An applicant must~~ Shall maintain ~~a one (1) place of business within one (1) of the three (3) permitted counties the state that which~~ shall be the principal working location for the employees of the permitted facility; and

(ii) ~~must maintain posted office hours at the principal working location~~ Shall maintain a posted twenty-four (24) hour emergency telephone number;

(6)(A) ~~Must~~ Shall provide approved-type cylinder or bottle-filling facilities consisting of a separate pump, the capacity of which shall not be in excess of twenty (20) gallons per minute and shall be designed for the primary purpose of filling bottles.

(B) Where a manifold or multiple filling system is contemplated, the board shall be consulted regarding pump capacity;

(7) ~~Must~~ Shall provide equipment satisfactory to the board;

(8)(A) ~~Must~~ Shall provide switch track or tank loading and unloading facilities satisfactory to the board.

(B) All auxiliary equipment such as pumps, hoses, electrical switches, etc., shall be Underwriters' Laboratory-approved for liquefied petroleum gases; and

(9) In addition to the foregoing requirements, all class one applicants must comply with all other applicable requirements.

SECTION 9. Arkansas Code § 15-75-308(b), concerning a class two application, is amended to read as follows:

(b) The applicant for a class two permit:

(1) ~~Must~~ Shall furnish evidence of the following insurance:

(A) Manufacturers' and Contractors' Bodily Injury Liability Insurance

Each Person \$250,000

Each Accident 500,000

(B) Manufacturers' and Contractors' Property Damage Liability Insurance

Each Accident \$250,000

Aggregate 500,000

(C) Products Bodily Injury Liability Insurance

Each Person \$250,000

Each Accident 500,000

Aggregate 500,000

(D) Products Property Damage Liability Insurance

Each Accident \$250,000

Aggregate 500,000

(2) ~~Must provide a certified or notarized financial statement which has been compiled within the past sixty (60) days;~~

(3) ~~Must~~ Shall provide ~~full-time~~ employment of qualified

personnel whose competency shall be proven through a current written or oral examination; and

~~(4)(3)~~ Must Shall comply with all other applicable requirements for class two applicants.

SECTION 10. Arkansas Code § 15-75-309(d), concerning a class three application, is amended to read as follows:

(d) The applicant for a class three permit:

(1) ~~Must~~ Shall furnish evidence of the following insurance:

(A) Manufacturers' and Contractors' Bodily Injury Liability Insurance

Each Person \$500,000

Each Accident 500,000

(B) Manufacturers' and Contractors' Property Damage

Liability Insurance

Each Accident \$500,000

Aggregate 500,000

(C) Products Bodily Injury Liability Insurance

Each Person \$500,000

Each Accident 500,000

Aggregate 500,000

(D) Products Property Damage Liability Insurance

Each Accident \$500,000

Aggregate 500,000

(2) ~~Must~~ Shall provide ~~full-time~~ employment of qualified personnel whose competency shall be proved through a current written or oral examination;

~~(3) Must provide a certified or notarized financial statement which has been compiled within the past sixty (60) days; and~~

~~(4)(3)~~ Must Shall comply with all other applicable requirements.

SECTION 11. Arkansas Code § 15-75-311(b), concerning a class five application, is amended to read as follows:

(b) An applicant for a class five permit:

(1) ~~Must~~ Shall furnish evidence of the following insurance:

(A) Automobile Bodily Injury Liability Insurance

Each Person \$500,000

Each Accident 500,000

(B) Automobile Property Damage Liability Insurance

Each Accident \$500,000

~~(2) Must provide a certified or notarized financial statement which has been compiled within the past sixty (60) days;~~

~~(3) Must Shall~~ provide ~~full-time~~ employment of qualified personnel whose competency shall be proved through a current written or oral examination; and

~~(4)(3)~~ Must Shall comply with all other applicable requirements.

SECTION 12. Arkansas Code § 15-75-316(b), concerning a class ten application, is amended to read as follows:

(b) Applicants for class ten permits:

(1) ~~Must~~ Shall furnish evidence of the following insurance:

(A) Manufacturers' and Contractors' Bodily Injury Liability

Insurance

Each Person \$500,000
Each Accident 500,000

(B) Manufacturers' and Contractors' Property Damage

Liability Insurance

Each Accident \$500,000
Aggregate 500,000

~~(2) Must provide a certified or notarized financial statement which has been compiled within the past sixty (60) days;~~

~~(3) Must Shall provide full-time employment of qualified personnel whose competency shall be proved through a current written or oral examination; and~~

~~(4)(3) Must Shall comply with all other applicable requirements.~~

SECTION 13. Arkansas Code § 15-75-320 is amended to read as follows:
15-75-320. Sales restrictions.

~~(a) No dealer shall sell or offer for sale liquefied petroleum gas or conduct liquefied petroleum gas operations of any type in any area of this state in which competent certified personnel are not readily available for proper and efficient service to the users' containers, systems, or appurtenances.~~

~~(b)(1) Beginning on July 1, 1999, the Liquefied Petroleum Gas Board shall review the service areas for each dealer who has been issued a current permit for the purpose of reviewing evidence establishing the area in which domestic liquefied petroleum gas operations were being conducted in general as of July 1, 1999.~~

~~(2) On July 1, 1999, each dealer who has a current permit which allowed service in a service area which runs into a particular county will be presumed competent to continue to provide service in that area and in any area throughout that county, regardless of whether or not they have facilities in that county. The entire county will automatically be grandfathered into the authorized area of operation for the permit. Each dealer shall pay a permit fee in the amount of three hundred dollars (\$300) for each class one permit location for each full county in which they desire to continue to operate. Provided, however, any dealer with a current class one permit as of July 1, 1999, who desires to continue operations only within their previously authorized service area and thereby to pay a single permit fee in the amount of four hundred dollars (\$400) for that service area, shall be authorized to operate within the previously authorized service area until such time as the dealer ceases operation or until he or she desires to provide more extensive service to an area of operations based on whole county areas.~~

~~(3) Beginning on July 1, 1999, and thereafter, each person applying for a permit to sell or offer for sale liquefied petroleum gas or conduct of liquefied petroleum gas operations shall apply to provide service to the entire area of a whole county. Each person applying for service in a county shall have adequate storage facilities, as determined by the Director of the Liquefied Petroleum Gas Board and the board, for the conduct of liquefied petroleum gas operations within the county or counties in which they are to serve. In deciding issues of the adequacy of service and facilities, the safety of the general public shall be the primary concern of the director and the board.~~

~~(c) Each existing or new permit issued by the board shall designate accurately the county or counties in which the holder may conduct liquefied petroleum gas operations.~~

~~(d) No dealer shall sell or offer for sale liquefied petroleum gas or conduct liquefied petroleum gas operations of any type in any county or counties not shown on and authorized by a current permit.~~

~~(e) Any dealer desiring to enlarge or expand liquefied petroleum gas service beyond the designated county or counties authorized by a current permit shall first obtain approval from the director with review by the board for a new permit at its next regularly scheduled meeting.~~

~~(f) Each auxiliary, subsidiary, or branch operation by dealers and any new county of operation not covered by an existing permit shall require a separate permit.~~

~~(g) After July 1, 1999, each county of operation for which application is made shall constitute an individual class one permit and requires an annual permit fee of three hundred dollars (\$300).~~

~~(h)(1) Any otherwise qualified dealer who does not elect to operate in the entire county and pay the required permit fee for the entire county as outlined in subdivision (b)(2) of this section before December 31, 2001, shall be presumed to elect to operate in the area of operation defined in the previously authorized area of operation on file before July 1, 1999, in the records of the board and shall not be permitted to select a county wide service area thereafter.~~

~~(2) After December 31, 2001, additional permitted areas of operation shall be by new application only."~~

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Wilkinson
GLG/LEF - 03-20-2007 08:57
GLG208

Secretary