

Substitute for SENATE BILL No. 335

By Committee on Agriculture

2-24

9 AN ACT concerning liquefied petroleum gas; relating to the regulation
10 thereof.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) This act shall be referred to as the Kansas propane
14 safety and licensing act.

15 (b) The state fire marshal shall establish programs relating to the
16 regulation and licensing of the liquefied petroleum gas industry in Kansas.

17 (c) For the purpose of this act:

18 (1) "Liquefied petroleum gas marketer" or "marketer" shall mean
19 and include any person, firm or corporation engaged directly in the retail
20 sale or retail transport delivery of liquefied petroleum gas;

21 (2) "retail distribution of liquefied petroleum gas" shall mean the
22 delivery, sale or transportation of liquefied petroleum gas to an end retail
23 user;

24 (3) "liquefied petroleum gas" shall mean and include any material
25 which is composed predominantly of any of the following hydrocarbons
26 or mixtures of the same: propane, propylene, butanes, including, but not
27 limited to, normal butane and isobutane and butylenes;

28 (4) "business" shall not mean a motor carrier, as defined in K.S.A.
29 66-1,108, and amendments thereto, which is properly registered with the
30 state corporation commission, except for a motor carrier who is a liquefied
31 petroleum gas marketer;

32 (5) "end retail user" shall mean and include any consumer, person,
33 firm or corporation who utilizes liquefied petroleum gas in Kansas;

34 (6) "Liquefied petroleum gas system" or "system" shall mean and
35 include any equipment utilizing liquefied petroleum gas including a stor-
36 age container, end point or points of combustion, appliances and all at-
37 tachments utilizing or transporting liquefied petroleum gas in a building
38 of any kind;

39 (7) "returned to service" shall mean the time at which liquefied pe-
40 troleum gas is reintroduced into the liquefied petroleum gas system, any
41 part of the liquefied petroleum gas system is repressurized, or at the
42 completion of any installation, modification, repair or service of a system;

43 (8) "interruption of service" shall mean (A) an event which causes

1 a liquefied petroleum gas system to become, in total or in part, depres-
2 surized due to any installation, modification, repair, service; or (B) a
3 change in occupancy or ownership of the location utilizing the liquefied
4 petroleum gas system;

5 (9) “state fire marshal” shall mean the fire marshal of the state of
6 Kansas; and

7 (10) “liquefied petroleum gas facilities” shall mean any liquefied pe-
8 troleum gas facility with an aggregate water capacity exceeding 2,000
9 gallons.

10 Sec. 2. (a) No person, firm, corporation, association or other entity
11 shall engage in any activity relating to the retail distribution of liquefied
12 petroleum gas, including, but not limited to, the manufacturing, assem-
13 bling, modifying, fabrication, installing or selling of any system, container
14 or apparatus to be used in the state of Kansas for the transportation,
15 storing, dispensing or utilization of liquefied petroleum gas by an end
16 retail user without first having obtained the proper license to do so as
17 provided in this act.

18 (b) This act shall not apply to vehicles utilizing or machinery utilizing
19 liquefied petroleum gas, the filling of cylinders by owners for private use,
20 liquefied petroleum gas systems with a capacity of less than 20 gallons of
21 liquefied petroleum gas or storage containers with a water capacity of 100
22 lbs or less unless otherwise stated in this act.

23 (c) Systems of propane with multiple storage containers serving dif-
24 ferent purposes or different geographical locations shall be treated as
25 individual and separate systems.

26 Sec. 3. (a) In any action brought against a liquefied petroleum gas
27 marketer for personal injury or property damage, an end retail user’s
28 damages shall be reduced by the comparative negligence of the end retail
29 user or any third party to the extent the action of the end retail user or
30 the third party contributed to cause the personal injury or property dam-
31 age, including, but not limited to, the end retail user’s or third party’s:
32 (1) Modification, repair, service or alteration of the end retail user’s liq-
33 uefied petroleum gas system; or (2) failure to conduct a leak check or
34 inspection of the liquefied petroleum gas system after any modification,
35 repair, service or alteration of the end retail user’s system.

36 (b) Nothing in this act is intended to limit any claim or defense that
37 an act of an end retail user, third party, marketer or other person or entity
38 contributed to cause the personal injury or property damage.

39 (c) In any action brought against a liquefied petroleum gas marketer
40 for personal injury or property damage, evidence of the marketer’s com-
41 pliance or noncompliance with this act shall be admissible as evidence to
42 support a claim or defense to the extent such evidence is relevant to the
43 cause of the personal injury or property damage.

1 (d) Nothing in this act is intended to limit the liability of any individ-
2 ual, licensee, or liquefied petroleum gas marketer for any damages that
3 arise from the reckless or intentional act.

4 (e) The state fire marshal shall develop an information notice and
5 distribute the same annually to all licensees. The notice shall include a
6 reference to this section, a description of the law and any additional in-
7 formation that the state fire marshal deems necessary and appropriate.

8 (f) Every liquefied petroleum gas marketer in the state of Kansas shall
9 maintain continuous general liability coverage of no less than \$1,000,000
10 and shall annually provide proof of insurance to the state fire marshal.

11 Sec. 4. (a) A plan and application for design, construction, major
12 modification and installation of all liquefied petroleum gas facilities with
13 an aggregate water capacity exceeding 2,000 gallons must be submitted
14 to the state fire marshal prior to the commencement of such design,
15 construction, major modification and installation of all liquefied petro-
16 leum gas facilities owned or operated by a liquefied petroleum gas
17 marketer.

18 (b) Construction, major modification and installation of all liquefied
19 petroleum gas facilities with an aggregate water capacity exceeding 2,000
20 gallons shall not commence until such plan and application is reviewed
21 and approved by the state fire marshal in accordance with rules and
22 regulations.

23 (c) The state fire marshal shall approve or deny the submitted appli-
24 cations and plans within 20 business days upon receipt of all necessary
25 documentation as provided for in rules and regulations. If the state fire
26 marshal requests additional information from the applicant, the state fire
27 marshal shall have an additional 20 business days from the day of receipt
28 of such information to approve or deny the submitted application and
29 plan.

30 Sec. 5. (a) A liquefied petroleum gas advisory board shall be created
31 within and as part of the state fire marshal's office.

32 (b) The advisory board shall serve in an advisory capacity to the gov-
33 ernor and the state fire marshal. The advisory board shall review and make
34 recommendations on proposed rules and regulations or proposed revi-
35 sions to current rules and regulations concerning liquefied petroleum gas
36 prior to the submission of such rules and regulations to the secretary of
37 administration pursuant to K.S.A. 77-420, and amendments thereto. Per-
38 sonnel matters of the state fire marshal shall not be reviewed by the
39 advisory board. The fire marshal advisory board shall not have any powers,
40 duties or functions concerning the day-to-day operations of the state fire
41 marshal.

42 (c) The board shall be composed of nine members who shall be ap-
43 pointed by the governor. Four members shall represent retail marketers

1 of liquefied petroleum gas; one member shall represent the insurance
2 industry; one member shall represent wholesalers, resellers, suppliers and
3 importers of liquefied petroleum gas; one member shall represent man-
4 ufacturers and distributors of liquefied petroleum gas equipment and
5 transporters of liquefied petroleum gas; and two members shall come
6 from the public. At no time shall more than five members of the fire
7 marshal's advisory board be members of the same political party.

8 (d) The regular term of office of members of the advisory board shall
9 be four years. Regular terms shall commence on the second Monday in
10 January following the appointment of a board member.

11 (e) Of the members of the board appointed in the year 2004:

12 (1) Four members shall have terms ending on the second Monday in
13 January 2008 and no more than two such members shall be members of
14 the same political party; and

15 (2) five members shall have terms ending on the second Monday in
16 January 2007 and no more than three such members shall be members
17 of the same political party.

18 (f) Any member appointed subsequent to 2004 shall be appointed for
19 a four-year term, unless such appointment is to fill the unexpired term
20 where a vacancy has occurred on the advisory board, in which case the
21 member shall be appointed for the remainder of the unexpired term.

22 (g) Members of any such advisory committee shall serve without
23 compensation. The membership shall be selected based on the individ-
24 ual's knowledge regarding propane, insurance or other relevant expertise.

25 Sec. 6. (a) The state fire marshal shall establish rules and regulations
26 consistent with this act. Any rules and regulations of the state fire marshal
27 adopted pursuant to this section may incorporate by reference specific
28 editions, or portions thereof, of nationally recognized fire prevention
29 codes. Such rules and regulations shall include but not be limited to the
30 following:

31 (1) Establish classes of licenses which shall be renewed on an annual
32 basis, including, but not limited to:

33 (A) Class one dealer license is required to engage in the retail distri-
34 bution of liquefied petroleum gas;

35 (B) class two bulk storage site license which requires the holder to
36 report all bulk storage facilities and locations within their operations;

37 (C) class three cylinder transport license is required to operate a cyl-
38 inder delivery service;

39 (D) class four cylinder filling license is required to operate a cylinder
40 filling facility, including liquefied petroleum gas cylinder filling and the
41 sale of cylinder valves, and the operation of a liquefied petroleum gas
42 filling station;

43 (E) class five recreational vehicle fueling license is required to fuel

1 recreational vehicles or mobile fuel containers;
2 (F) class six cylinder exchange cabinet license is required to establish
3 a cylinder exchange cabinet or participate in a cylinder program;
4 (G) class seven self-serve liquefied petroleum gas dispensing license
5 is required to operate a liquefied petroleum gas fueling facility; and
6 (H) class eight installation and service of liquefied petroleum gas sys-
7 tems license is required to install, maintain, or modify a residential or
8 commercial liquefied petroleum gas distribution and utilization system.
9 (2) establish educational requirements for each class of licenses;
10 (3) establish inspection programs and inspection requirements for all
11 liquefied petroleum gas facilities, operations, installations and businesses,
12 including, but not limited to, bulk storage areas, safety information and
13 customer records, educational requirements of liquefied petroleum gas
14 employees and commercial establishments and places of public gathering
15 that are end retail users for compliance with rules and regulations; and
16 (4) the state fire marshal shall specify codes which the state fire mar-
17 shal has determined provide adequate protection and guidance to the
18 liquefied petroleum gas industry and public relating to the handling, in-
19 stallation, modification, delivery and use of liquefied petroleum gas and
20 liquefied petroleum gas systems.
21 (b) The state fire marshal shall have the authority to charge and col-
22 lect fees as provided in this subsection:
23 (1) The annual license fee for a class one dealer license shall not
24 exceed \$250 per location;
25 (2) the annual class two bulk storage site license fee shall not exceed
26 \$50 per tank;
27 (3) the annual class three cylinder transport license fee per vehicle
28 shall not exceed \$125 per truck;
29 (4) the annual class four cylinder filling license fee per facility shall
30 not exceed \$75 per location;
31 (5) the annual class five recreational vehicle fueling license fee per
32 facility shall not exceed \$75 per location;
33 (6) the annual class six cylinder exchange cabinet license fee per fa-
34 cility shall not exceed \$15 per location;
35 (7) the annual class seven self-serve liquefied petroleum gas dispens-
36 ing license fee per facility shall not exceed \$75 per location; and
37 (8) the annual class eight installation and service of liquefied petro-
38 leum gas systems license fee shall not exceed \$25 per individual.
39 (c) In addition to any other penalty provided by law, any person vi-
40 olating the provisions of this act and amendments thereto or the rules
41 and regulations adopted pursuant to this act may incur a civil penalty in
42 the amount not less than \$50 nor more than \$1,000 for each such viola-
43 tion. In the case of a continuing violation, every day such violation con-

1 tinues is a separate violation. Such fines shall be imposed pursuant to the
2 procedures provided in the administrative procedure act. Any civil penalty
3 recovered shall be remitted to the state treasurer and deposited to the
4 credit of the state general fund.

5 (d) The state fire marshal shall create uniform safety information
6 which shall be distributed on, at least an annual basis, to all licensees.

7 (e) Grounds for suspension, revocation or refusal to issue or renew
8 licenses and procedure.

9 (1) The fire marshal may suspend, revoke or refuse to issue or renew
10 a license of any liquefied petroleum gas marketer or individual licensee
11 as created by this act and rules and regulations upon proof that the li-
12 censee has violated any provision of this act or amendments thereto, any
13 rules and regulations or amendments thereto, or provision regarding a
14 class of license as established by the state fire marshal.

15 (2) Proceedings to consider the suspension, revocation or refusal to
16 renew a license shall be conducted in accordance with the provisions of
17 the Kansas administrative procedure act.

18 Sec. 7. There is hereby created the state fire marshal liquefied pe-
19 troleum gas fee fund. The fire marshal shall remit all moneys received by
20 or for it from fees or charges to the state treasurer in accordance with
21 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
22 of each such remittance, the state treasurer shall deposit the entire
23 amount in the state treasury to the credit of the state fire marshal liquefied
24 petroleum gas fee fund. All expenditures from the state fire marshal liq-
25 uefied petroleum gas fee fund shall be made in accordance with appro-
26 priation acts upon warrants of the director of accounts and reports issued
27 pursuant to vouchers approved by the fire marshal or by a person or
28 persons designated by the state fire marshal.

29 Sec. 8. This act shall take effect and be in force from and after its
30 publication in the Kansas register.