
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1786 Session of
1999

INTRODUCED BY ARGALL, GEIST, HALUSKA, HENNESSEY, HERSHEY,
SAYLOR, STEELMAN, E. Z. TAYLOR AND R. MILLER, JULY 20, 1999

REFERRED TO COMMITTEE ON LABOR RELATIONS, JULY 20, 1999

AN ACT

1 Providing for the transferring of liquefied petroleum gas, for
2 registration, for fees, for inspection, for records, for
3 training, for permits and for appeal; establishing the
4 Liquefied Petroleum Gas Advisory Board; providing for
5 insurance, for prohibitions and for penalties; and making
6 repeals.

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9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Short title.

12 This act shall be known and may be cited as the Propane and
13 Liquefied Petroleum Gas Act.

14 Section 2. Definitions.

15 The following words and phrases when used in this act shall
16 have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Advisory board." The Liquefied Petroleum Gas Advisory
19 Board.

20 "Bulk plant." An LPG storage facility, the primary purpose
21 of which is the distribution of LPG; which receives LPG by tank
22 car, tank truck or piping; and which distributes the LPG to the
23 end user by portable container (package) delivery or by tank
24 truck. The facility must have bulk storage water capacity of
25 2,000-gallon (7.6 cubic meters) or more, and have either
26 container filling or a tank loading facility on the premises.
27 The term includes a facility regardless of bulk storage
28 capacity, that transfers LPG from tank cars on a private track
29 directly into cargo tanks.

30 "Department." The Department of Labor and Industry of the

1 Commonwealth.

2 "Dispenser." A person licensed by the Department of Labor
3 and Industry who sells or transfers LPG. The term does not
4 include a person that sells both LPG and the container in which
5 the LPG is contained if the container is not more than 2.5
6 pounds water capacity.

7 "Establishment." Any room, building or place within this
8 Commonwealth where persons are employed or permitted to work for
9 compensation of any kind, to whomever payable, and any place of
10 public assembly or business to which the public has access,
11 including homes, apartments, private dwellings or other places
12 as designated by the Department of Labor and Industry.

13 "Gallons." The term shall be measured in terms of water
14 capacity.

15 "Industrial user." Any person who is the consumer of LPG and
16 who maintains total storage capacity of 2,000-gallon water
17 capacity or more.

18 "Industry standard." Those standards developed by the
19 National Fire Protection Association for the storage and
20 handling of liquefied petroleum gases.

21 "Liquefied petroleum gas" or "LPG." Any material in liquid
22 form that is composed predominately of any of the following
23 hydrocarbons or mixtures thereof:

24 (1) Propane.

25 (2) Propylene.

26 (3) Normal butane or isobutane.

27 (4) Butylenes.

28 "LPG facility." Persons, dispensers, bulk plants and
29 industrial users with storage capacity in excess of 9,000
30 gallons.

1 "Operator." A person transferring LPG. The term includes
2 owners, agents or employees of a LPG facility. To be an
3 operator, the person does not need be the owner of the
4 container.

5 "Person." Any individual, firm, partnership, unincorporated
6 association, corporation or municipality, including the
7 Commonwealth.

8 "Secretary." The Secretary of Labor and Industry of the
9 Commonwealth.

10 "Transfer." To cause LPG to pass from any pipeline, tank,
11 container, tank truck, receptacle or storage location to a
12 similar or different type of pipeline, tank, container, tank
13 truck, receptacle or storage location.

14 Section 3. Transfer of LPG.

15 (a) Authorization required.--No person shall transfer, sell,
16 fill, refill, deliver or permit to be delivered any LPG or use a
17 LPG container or receptacle unless authorized to do so by the
18 owner of the LPG container and properly authorized by the
19 department to do so, or authorized to do so by emergency
20 response agencies, their agents, volunteers or employees.

21 (b) Notification.--Whenever any person acting in behalf of
22 an authorized emergency response agency transfers LPG or
23 disconnects any LPG container, such person shall notify the
24 container owner within five days after transferring LPG or
25 disconnecting a LPG container.

26 (c) Permit for transfer.--No person shall sell or transfer
27 LPG to any LPG facility that does not possess a current permit
28 or other authorization issued by the department.

29 (d) Container to be secured.--Any person disconnecting such
30 container shall secure the LPG container in a safe fashion.

1 Section 4. Registration.

2 (a) General rule.--The following shall register with and
3 obtain a permit from the department:

4 (1) Dispensers.

5 (2) Bulk plants.

6 (3) Individual industrial or utility users with storage
7 capacity of 9,000 gallons or more.

8 (4) Owners of containers of 470 pounds water capacity or
9 larger who are not registered as LPG facilities.

10 (b) Notice of location.--Owners of underground storage
11 containers of any size are required to notify the department of
12 the proposed location of any underground storage container prior
13 to installation of an underground storage container.

14 (c) Submission of plans.--Prior to beginning construction or
15 modification of an LPG facility, the owner of any LPG facility
16 shall submit to the department for its approval plans for the
17 construction or modification of the LPG facility. The owner
18 shall provide additional technical information if it is
19 requested by the department for purposes of plan approval.
20 Before any LPG facility is put into use, the owner shall apply
21 for and receive a permit from the department.

22 Section 5. Fees.

23 (a) Establishment.--The department, in consultation with the
24 advisory board, shall establish fees by regulation for the
25 approval of new and expansion of existing LPG facilities,
26 permits, transfer permits and certification of training
27 programs. LPG facilities shall not be required to pay additional
28 fees as owners of individual containers of 470 pounds water
29 capacity or larger.

30 (b) Use of fees.--The total fees collected by the department

1 annually shall equal as closely as possible the expenditures
2 necessary for the enforcement of this act. All fees received
3 pursuant to this act shall be paid into the State Treasury
4 through the Department of Revenue.

5 (c) Effective date.--This section shall not take effect
6 until the next annual billing by the department following the
7 effective date of this act and adoption of appropriate
8 regulations.

9 (d) Interim.--Until this section takes effect, fees shall be
10 assessed under section 3.2 of the act of December 27, 1951
11 (P.L.1793, No.475), referred to as the Liquefied Petroleum Gas
12 Act.

13 Section 6. Inspection.

14 The department shall inspect a sufficient number of LPG
15 installations to insure that they are properly installed and
16 maintained in accordance with the provisions of this act and the
17 regulations of the department.

18 Section 7. Records.

19 Adequate records shall be maintained by each LPG facility
20 owner as to the installation addresses of all customers served.
21 The records shall be made available to the department upon
22 request at a location specified by the LPG facility owner during
23 normal business hours. Records may be maintained in any
24 accessible form, including paper or computer disk.

25 Section 8. Operator training.

26 (a) Required training.--No individual, employee or agent
27 shall transfer LPG without receiving training from an LPG
28 facility operator. Each LPG facility operator shall develop and
29 submit to the department a program of training which is in
30 accordance with standards approved by the department. The

1 department shall consult with the Advisory Board and the
2 Pennsylvania Propane Gas Association in the development of an
3 approved training program.

4 (b) Records.--The LPG facility operator shall maintain
5 training records and make those records available to the
6 department in accordance with this act.

7 Section 9. Permits, registration and inspection.

8 (a) Permits for LPG facilities.--The department shall issue
9 permits for LPG facilities and conduct a reasonable number of
10 inspections to ensure compliance with this act. An LPG facility
11 shall not be inspected more than once every two years unless the
12 department finds that there is just cause to believe that there
13 is a threat to public safety at the facility.

14 (b) Permits to individual owners.--The department shall
15 issue permits to individual owners of containers of 470 pounds
16 water capacity or larger who are not otherwise covered by this
17 section and shall inspect the containers on a schedule
18 established by the department.

19 (c) Register of underground installations.--The department
20 shall also maintain a register of all owners of underground
21 installations and the location of such installations. The
22 department shall annually forward a copy of all underground
23 locations within a particular county to the county recorder of
24 deeds office.

25 Section 10. Siting.

26 The department shall have the authority to develop criteria
27 applicable to the siting of all new LPG facilities in excess of
28 300,000 gallons and the expansion of all existing LPG facilities
29 if the expansion would exceed 500,000 total capacity. Those
30 criteria shall include, but not be limited to:

- 1 (1) Storage quantities.
- 2 (2) Proximity to populated areas and public ways.
- 3 (3) The impact of any rejection from the department upon
- 4 the LPG facility's ability to service current and anticipated
- 5 consumer needs and upon the LPG facility's business
- 6 investment.
- 7 (4) Risk to and from existing adjacent facilities.
- 8 (5) Topography of the site.
- 9 (6) Access for emergency vehicle response.
- 10 (7) Utilities, both public and private.
- 11 (8) Requirements for receipt or shipment of products.
- 12 (9) Compliance with local code and ordinances as
- 13 provided in section 16.
- 14 (10) The safety plan proposed by the LPG facility, such
- 15 as emergency systems, spill containment, fire protection,
- 16 fencing and lighting.

17 Section 11. Application process.

18 (a) Application required.--Any person that plans to operate

19 a new propane facility in excess of 300,000 gallons or expand an

20 existing propane facility to exceed 500,000 gallons shall submit

21 an application to the department. Upon submission of the

22 application to the department, the applicant shall notify the

23 chief executive of the municipality where the facility is

24 located that the applicant has filed an application with the

25 department.

26 (b) Publication.--Within ten business days of receipt of the

27 application, the department shall arrange for publication of a

28 notice of application in the Pennsylvania Bulletin.

29 (c) Protest.--Any party that wishes to protest the approval

30 of an application must file a notice of protest with the

1 department within 30 days after the date of the publication of
2 the notice of application. The municipality in which the LPG
3 facility would be located is a party for purposes of this
4 section. Any party, including a political subdivision, who does
5 not file a protest on a timely basis shall be barred from any
6 participation in the application or appeal process.

7 (d) Written comments.--The applicant and any party who has
8 filed a notice of protest shall submit written comments to the
9 department supporting their respective positions within 45 days
10 of the publication of the notice of application in the
11 Pennsylvania Bulletin.

12 (e) Review.--The department shall review the written
13 submissions and may inspect the site. The department shall issue
14 a written determination approving or disapproving the
15 application within 90 days of the publication of the notice of
16 application. This time may be extended only upon receipt of a
17 written approval of the extension from the applicant.

18 Section 12. Appeal.

19 (a) Determination.--The department shall issue its initial
20 determination. A party may appeal the initial determination to
21 the department. An appeal must be filed within 30 days.

22 (b) Hearing.--If an appeal is filed under subsection (a), a
23 formal hearing shall then be conducted in accordance with the
24 provisions of 2 Pa.C.S. (relating to administrative law and
25 procedure) by a hearing examiner appointed by the secretary. The
26 department may, at its discretion, secure an independent
27 scientific consultant with knowledge of LPG facilities who shall
28 prepare and issue a report, which shall be made part of the
29 record before the hearing examiner. The cost of the services of
30 this expert shall be equally divided between the department and

1 the parties. Parties may also secure expert testimony if they
2 desire. The order of the hearing examiner shall be appealable to
3 the Industrial Board within 15 days of its receipt by a party.

4 (c) Decision.--The Industrial Board shall issue its decision
5 within 60 days of the department's receipt of the appeal from
6 the hearing examiner's decision.

7 (d) Appeal of decision.--Any party may appeal a decision of
8 the Industrial Board to the Commonwealth Court within 30 days of
9 the date of issuance of the decision.

10 Section 13. Advisory board.

11 (a) Establishment.--There is hereby established a Liquefied
12 Petroleum Gas Advisory Board within the department. The members
13 of the board shall be appointed by the secretary and shall
14 advise the Industrial Board in matters under this act.

15 (b) Members.--The board shall consist of seven members as
16 follows:

17 (1) One representative of the department who shall serve
18 as chairperson.

19 (2) Five representatives from the Liquefied Petroleum
20 Gas Industry. To the extent possible, the representatives
21 must represent various segments of the industry and have
22 knowledge of LPG facilities of different sizes and types of
23 storage.

24 (3) One consumer representative.

25 (c) Conduct of business.--The board shall conduct business
26 in accordance with the 65 Pa.C.S. Ch. 7 (relating to open
27 meetings).

28 (d) Terms.--The members of the board shall be appointed to
29 terms of three years. Terms following the initial appointment
30 shall be staggered so that three members initially serve a

1 three-year appointment, two members serve a two-year appointment
2 and two members serve a one-year appointment.

3 (e) Duties.--The board shall:

4 (1) Review and comment on all fee schedules prior to
5 promulgation and adoption by the department.

6 (2) Review and comment on all regulations prior to
7 release of such regulations to the Office of Attorney General
8 under section 204(b) of the act of October 15, 1980 (P.L.950,
9 No.164), known as the Commonwealth Attorneys Act.

10 (3) Review and comment on all amendments to industry
11 standards.

12 (4) Consider enforcement problems within the industry.

13 (5) Recommend appropriate training programs for
14 functions performed by various types and classifications of
15 industry employees. Such training programs may include video,
16 computer-based printed material and attendance at industry-
17 sponsored programs, seminars and demonstrations.

18 (6) Recommend scientific experts with knowledge of LPG
19 facilities for use in the appeals process.

20 (7) Consider other issues specified by the secretary.

21 (f) Compensation.--Members of the board shall serve without
22 compensation but shall be reimbursed for actual and reasonable
23 expenses related to the performance of their official duties.
24 Reimbursement shall be allocated from funds available under this
25 act.

26 Section 14. Insurance.

27 An LPG facility shall secure and maintain policies of
28 liability insurance in the following amounts:

29 (1) Dispensers shall maintain minimum coverage of
30 \$250,000.

(2) Individual and industrial users with a storage capacity in excess of 9,000 gallons and bulk plants shall maintain minimum liability coverage of \$1,000,000 per incident and \$2,000,000 in the aggregate.

Section 15. Prohibitions.

(a) Installation.--No person shall install, service, fill or for any other purpose place a tank of LPG on top of any roof of a dwelling or structure within this Commonwealth unless the tank was installed prior to January 1, 1980.

(b) Department.--The department shall not approve or permit any type of LPG installation on top of any roof of a dwelling or structure within this Commonwealth.

(c) Dispenser.--A dispenser shall not install, service or fill nor shall any other person place a tank or any type of LPG installation on top of any roof of a dwelling or structure within this Commonwealth. This section shall not be superseded by industry standards.

Section 16. Preemption of municipal regulations.

(a) Rights reserved by Commonwealth.--The Commonwealth specifically reserves the sole right and ability to regulate any and all matters related to the operation of the Liquefied Petroleum Gas Industry in accordance with this act.

(b) Regulations not to conflict.--

(1) Except for cities of the first and second class, and as provided in paragraph (2), no municipality or any other political subdivision shall adopt or enforce any ordinance or regulation which differs from or conflicts in whole or in part with the provisions of this act or with the regulations promulgated under this act with regard to permits, licensing standards, fees, construction, installation, maintenance,

operation, inspection or location of LPG tanks or plants or any other matters related to this industry within this Commonwealth. Notwithstanding any provisions of NFPA 58 to the contrary, a municipality retains the right to establish side and rear yard setbacks of ten feet from a property line in residential districts. An LPG facility shall comply with the municipal standards applied to primary structures permitted in the particular district.

(2) A municipality shall retain the right pursuant to local zoning ordinances to require any LPG facility to locate within approved residential, industrial, commercial or other zones and to require to LPG facility to obtain zoning permits, pay zoning fees and undergo inspections related to the zoning of the LPG facility.

(3) A municipality may not prohibit or otherwise regulate the use or storage of LPG including the location or replacement of storage tanks for LPG.

(c) Definitions.--As used in this section, "differs" or "conflicts" shall include, but not be limited to, regulation of any area not addressed in this statute.

Section 17. Regulations.

(a) Regulatory authority.--The department shall promulgate and enforce regulations to implement this act. These regulations may include setting forth minimum general standards covering the design, installation and construction of containers and pertinent equipment for the storage and handling of liquefied petroleum gases, specifying the odorization of the gases and establishing guidelines for the processes and technologies that are not covered by industry standards. The regulations shall be such as are reasonably necessary for the protection of the

1 health, welfare and safety of the public and persons using such
2 materials and utilize the National Fire Protection Association
3 industry standards.

4 (b) Interim regulations.--The department shall use the
5 current Pennsylvania LPG regulations and the 1992 edition of
6 National Fire Protection Association 54 and 58, including all
7 cross references for purposes of this act, until new regulations
8 are promulgated and published as final rule in the Pennsylvania
9 Bulletin and the effective date of the new regulations has
10 arrived, unless otherwise specified in this act.

11 (c) Revision of regulations.--The department may revise the
12 regulations as necessary to implement this act at any time. Each
13 regulation based on a revised edition of an industry standard
14 shall take effect no earlier than two years following the
15 effective date of the industry standard.

16 Section 18. Penalties.

17 (a) Violations.--Any person who violates any of the
18 provisions of sections 3, 9, 11, 14 and 15 or the regulations of
19 the department, as provided in this act, shall pay a fine of not
20 less than \$500 nor more than \$2,000 or, in default thereof,
21 shall be sentenced to imprisonment for a period of not less than
22 one month nor more than three months.

23 (b) Collection of fines.--All fines collected under this act
24 shall be forwarded to the Department of Revenue, which shall
25 transmit the funds to the State Treasury.

26 Section 19. Administration.

27 The following acts or parts of acts shall be administered
28 jointly with this act:

29 Act of April 9, 1929 (P.L.177, No.175), known as The
30 Administrative Code of 1929.

1 Act of June 18, 1998 (P.L.655, NO.85), known as the Boiler
2 and Unfired Pressure Vessel Law.

3 Section 20. Repeals.

4 (a) Absolute.--The act of December 27, 1951 (P.L.1793,
5 No.475), referred to as the Liquefied Petroleum Gas Act, is
6 repealed.

7 (b) General.--All other acts and parts of acts are repealed
8 insofar as they are inconsistent with this act.

9 Section 21. Effective date.

10 This act shall take effect in 60 days.