
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1237 Session of
2001

INTRODUCED BY ARGALL, BARD, CAPPELLI, CLYMER, DAILEY, DeWEESE,
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MARCH 29, 2001

REFERRED TO COMMITTEE ON LABOR RELATIONS, MARCH 29, 2001

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

12 Section 1. Short title.

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

15 Section 2. Definitions.

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

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

21 "Authorized attendant." An employee of a manufacturer,
22 distributor, or user of LPG who has been trained, in a manner
23 approved by the Department of Labor and Industry, in the proper
24 performance of duties, and who has been officially recognized by
25 the facility operator to perform those duties.

26 "Bulk plant." An LPG storage facility, the primary purpose
27 of which is the distribution of LPG which has:

28 (1) a bulk storage capacity of more than 2,000 gallons;
29 and

30 (2) container-filling or tank-loading facilities on the

1 premises.

2 The term includes a consumer of LPG that uses storage tanks to
3 refill the consumer's own containers if the consumer's storage
4 facility has a bulk storage capacity of less than 2,000 gallons,
5 and the storage tanks are not owned by a distributor.

6 "Department." The Department of Labor and Industry of the
7 Commonwealth.

8 "Distributor." A person authorized by the Department of
9 Labor and Industry to sell or transfer LPG.

10 "Gallons." The term shall be measured in terms of water
11 capacity.

12 "Industrial user." Any person who is the consumer of LPG and
13 who maintains a total storage capacity at a site of more than
14 2,000 gallons and whose storage tanks are not otherwise
15 registered under a distributor.

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

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

22 (1) Propane.

23 (2) Propylene.

24 (3) Normal butane or isobutane.

25 (4) Butylenes.

26 "LPG facility." Distributors, bulk plants and industrial
27 users.

28 "Person." Any individual, firm, partnership, unincorporated
29 association, corporation, political subdivision or authority,
30 including the Commonwealth.

1 "Secretary." The Secretary of Labor and Industry of the
2 Commonwealth.

3 "Transfer." To cause LPG to pass from any pipeline, tank,
4 container, tank truck, receptacle or storage location to a
5 similar or different type of pipeline, tank, container, tank
6 truck, receptacle or storage location.

7 Section 3. Transfer of LPG.

8 (a) Authorization required.--No person shall transfer, sell,
9 fill, deliver or permit to be delivered any LPG or use a LPG
10 container or receptacle unless authorized to do so by the owner
11 of the LPG container and authorized by the department to do so,
12 or authorized to do so by emergency response agencies.

13 (b) Notification.--Whenever any person acting in behalf of
14 an authorized emergency response agency transfers LPG or
15 disconnects any LPG container, such person shall notify the
16 container owner within five days after such action.

17 (c) Container to be secured.--Any person disconnecting such
18 container shall secure the LPG container in a safe fashion.

19 Section 4. Registration.

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

22 (1) Distributors.

23 (2) Bulk plants.

24 (3) Industrial users.

25 (4) Owners of containers of 470 pounds water capacity or
26 larger who are not otherwise registered.

27 (b) Submission of plans.--

28 (1) Prior to beginning construction or modification of
29 an LPG facility, the following requirements shall be met:

30 (i) Except as set forth in subparagraph (ii), the

1 owner of an LPG facility shall submit to the department
2 for its approval plans for the construction or
3 modification of the facility. The owner shall provide
4 additional technical information if it is requested by
5 the department for purposes of plan approval.

6 (ii) A distributor installing or expanding a bulk
7 plant or an industrial user with total storage capacity
8 of less than 9,000 gallons shall submit to the
9 department, in a manner specified by the department,
10 notice of intent to install.

11 (2) Before any LPG facility is put into use, any owner,
12 who is not a distributor, shall apply for and receive a
13 permit from the department.

14 Section 5. Fees.

15 (a) Establishment.--The department, in consultation with the
16 advisory board, shall establish fees by regulation for the
17 approval of new and expansion of existing LPG facilities,
18 permits and certification of training programs. LPG facilities
19 shall not be required to pay additional fees as owners of
20 individual containers of 470 pounds water capacity or larger.

21 (b) Use of fees.--The total fees collected by the department
22 annually shall equal as closely as possible the expenditures
23 necessary for the enforcement of this act. All fees received
24 pursuant to this act shall be paid into the State Treasury
25 through the Department of Revenue.

26 (c) Effective date.--This section shall not take effect
27 until the next annual billing by the department following the
28 effective date of this act and adoption of appropriate
29 regulations.

30 (d) Interim.--Until this section takes effect, fees shall be

1 assessed under section 3.2 of the act of December 27, 1951
2 (P.L.1793, No.475), referred to as the Liquefied Petroleum Gas
3 Act.

4 Section 6. Records.

5 Adequate records shall be maintained by each LPG facility
6 owner as to the installation addresses of all customers served.
7 The records shall be made available to the department upon
8 request at a location specified by the LPG facility owner during
9 normal business hours. Records may be maintained in any
10 accessible form, including paper or computer disk.

11 Section 7. Operator training.

12 (a) Required training.--No individual shall transfer LPG
13 unless the individual is an authorized attendant. Each LPG
14 facility operator shall develop and submit to the department a
15 program of training which is in accordance with standards
16 approved by the department. The department shall consult with
17 the Advisory Board and the Pennsylvania Propane Gas Association
18 in the development of an approved training program.

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

22 Section 8. Inspections.

23 (a) LPG facilities.--The department shall establish a
24 schedule for inspection of LPG facilities. An LPG facility shall
25 not be inspected more than once every two years.

26 (b) Individual owners.--The department shall inspect
27 individually owned containers with water capacity of at least
28 470 pounds not more than once every two years on a schedule
29 established by the department.

30 (c) General inspection authority.--The department may, when

1 it has just cause to believe there is a threat to public safety
2 at a particular installation, inspect any LPG facility or
3 privately owned container, with water storage capacity of at
4 least 470 pounds.

5 Section 9. Siting.

6 The department shall have the authority to develop criteria
7 applicable to the siting of all new LPG facilities in excess of
8 400,000 gallons and the expansion of all existing LPG facilities
9 if the expansion would exceed 400,000 gallons total capacity.

10 Those criteria shall include, but not be limited to:

11 (1) Storage quantities.

12 (2) Proximity to populated areas and public ways.

13 (3) The impact of any rejection from the department upon
14 the LPG facility's ability to service current and anticipated
15 consumer needs and upon the LPG facility's business
16 investment.

17 (4) Risk to and from existing adjacent facilities.

18 (5) Topography of the site.

19 (6) Access for emergency vehicle response.

20 (7) Utilities, both public and private.

21 (8) Requirements for receipt or shipment of products.

22 (9) Compliance with local code and ordinances as
23 provided in section 15.

24 (10) The safety plan proposed by the LPG facility, such
25 as emergency systems, spill containment, fire protection,
26 fencing and lighting.

27 Section 10. Application process.

28 (a) Application required.--Any person that plans to operate
29 a new LPG facility in excess of 400,000 gallons or expand an
30 existing LPG facility to exceed 400,000 gallons shall submit an

1 application to the department. Upon submission of the
2 application to the department, the applicant shall notify the
3 municipality where the facility is located that the applicant
4 has filed an application with the department. Notification shall
5 be in a manner provided by the department.

6 (b) Publication.--Within ten business days of receipt of the
7 application, the department shall arrange for publication of a
8 notice of application in the Pennsylvania Bulletin.

9 (c) Protest.--Any party that wishes to protest the approval
10 of an application must file a notice of protest with the
11 department within 30 days after the date of the publication of
12 the notice of application. The municipality in which the LPG
13 facility would be located is a party for purposes of this
14 section. Any party, including a municipality, who does not file
15 a protest on a timely basis shall be barred from any
16 participation in the application or appeal process.

17 (d) Written comments.--The applicant and any party who has
18 filed a notice of protest shall submit written comments to the
19 department supporting their respective positions within 45 days
20 of the publication of the notice of application in the
21 Pennsylvania Bulletin.

22 (e) Review.--The department shall review the written
23 submissions and may inspect the site. The department shall issue
24 a written determination approving or disapproving the
25 application within 90 days of the publication of the notice of
26 application, and a copy of the notice shall be sent to all
27 interested parties by certified mail. This time may be extended
28 only upon receipt of a written approval of the extension from
29 the applicant.

30 Section 11. Appeal.

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

4 (b) Hearing.--If an appeal is filed under subsection (a), a
5 formal hearing shall then be conducted in accordance with the
6 provisions of 2 Pa.C.S. (relating to administrative law and
7 procedure) by a hearing examiner appointed by the secretary. The
8 department may, at its discretion, secure an independent
9 scientific consultant with knowledge of LPG facilities who shall
10 prepare and issue a report, which shall be made part of the
11 record before the hearing examiner. The cost of the services of
12 this expert shall be equally divided between the department and
13 the parties. Parties may also secure expert testimony if they
14 desire. The order of the hearing examiner shall be appealable to
15 the Industrial Board within 15 days of its receipt by a party.

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

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

22 Section 12. Advisory board.

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

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

29 (1) One representative of the department who shall serve
30 as chairperson.

1 (2) Five representatives from the Liquefied Petroleum
2 Gas Industry. To the extent possible, the representatives
3 must represent various segments of the industry and have
4 knowledge of LPG facilities of different sizes and types of
5 storage.

6 (3) One consumer representative.

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

10 (d) Terms.--The members of the board shall be appointed to
11 terms of three years. Terms following the initial appointment
12 shall be staggered so that three members initially serve a
13 three-year appointment, two members serve a two-year appointment
14 and two members serve a one-year appointment.

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

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

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

22 (3) Review and comment on all amendments to industry
23 standards.

24 (4) Consider enforcement problems within the industry.

25 (5) Recommend appropriate training programs for
26 functions performed by various types and classifications of
27 industry employees. Such training programs may include video,
28 computer-based printed material and attendance at industry-
29 sponsored programs, seminars and demonstrations.

30 (6) Recommend scientific experts with knowledge of LPG

1 facilities for use in the appeals process.

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

3 (f) Compensation.--Members of the board shall serve without
4 compensation but shall be reimbursed for actual and reasonable
5 expenses related to the performance of their official duties.
6 Reimbursement shall be allocated from funds available under this
7 act.

8 Section 13. Insurance.

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

11 (1) An LPG facility with a storage capacity of not more
12 than 9,000 gallons shall maintain minimum liability coverage
13 of \$250,000.

14 (2) An LPG facility with a storage capacity in excess of
15 9,000 gallons shall maintain minimum liability coverage of
16 \$1,000,000 per incident and \$2,000,000 in the aggregate.

17 Section 14. Prohibitions.

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

22 Section 15. Preemption of municipal regulations.

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

27 (b) Regulations not to conflict.--

28 (1) Except for cities of the first and second class, and
29 as provided in paragraph (2), no municipality or any other
30 political subdivision shall adopt or enforce any ordinance or

1 regulation which differs from or conflicts in whole or in
2 part with the provisions of this act or with the regulations
3 promulgated under this act with regard to permits, licensing
4 standards, fees, construction, installation, maintenance,
5 operation, inspection or location of LPG tanks or plants or
6 any other matters related to this industry within this
7 Commonwealth. Notwithstanding any provisions of NFPA 58 to
8 the contrary, a municipality retains the right to establish,
9 for LPG tanks, side and rear yard setbacks of ten feet from a
10 property line in residential districts.

11 (2) A municipality shall retain the right pursuant to
12 local zoning ordinances to require any LPG facility to locate
13 within approved residential, industrial, commercial or other
14 zones and to require an LPG facility to obtain zoning
15 permits, pay zoning fees and undergo inspections related to
16 the zoning of the LPG facility. Any building at an LPG
17 facility shall comply with the municipal standards applied to
18 primary structures.

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

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

25 Section 16. Regulations.

26 (a) Regulatory authority.--The department shall promulgate
27 and enforce regulations to implement this act. These regulations
28 may include setting forth minimum general standards covering the
29 design, installation and construction of containers and
30 pertinent equipment for the storage and handling of liquefied

1 petroleum gases, specifying the odorization of the gases and
2 establishing guidelines for the processes and technologies that
3 are not covered by industry standards. The regulations shall be
4 such as are reasonably necessary for the protection of the
5 health, welfare and safety of the public and persons using such
6 materials and utilize the National Fire Protection Association
7 industry standards.

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

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

20 Section 17. Enforcement and penalties.

21 (a) Enforcement.--

22 (1) The department shall enforce this act and the
23 regulations promulgated under this act.

24 (2) The department may initiate criminal prosecutions
25 under this section.

26 (b) Penalties.--

27 (1) Except as provided in paragraph (2), a person that
28 violates this act or a regulation promulgated under this act
29 commits a summary offense and shall upon conviction, be
30 sentenced to pay a fine of not more than \$500 or to

1 imprisonment for not more than ten days.

2 (2) A person that, after being sentenced under paragraph
3 (1), violates this act or a regulation promulgated under this
4 act commits a summary offense and shall upon conviction, be
5 sentenced to pay a fine of not more than \$1,000 or to
6 imprisonment for not more than 30 days.

7 (c) Collection of fines.--All fines collected under this act
8 shall be forwarded to the Department of Revenue, which shall
9 transmit the funds to the State Treasury.

10 Section 18. Administration.

11 (a) Other statutes.--The following acts or parts of acts
12 shall be administered jointly with this act:

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

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

17 (b) Restriction.--Nothing in this act shall be construed as
18 giving the department the authority to regulate persons that
19 both sell LPG and the container in which the LPG is contained if
20 the container is not more than 2.5 pounds water capacity.

21 Section 19. Other acts.

22 Any LPG facility or distributor covered by this act shall not
23 be subject to the act of December 10, 1974 (P.L.852, No.287),
24 referred to as the Underground Utility Line Protection Law, the
25 act of December 7, 1990 (P.L.639, No.165), known as the
26 Hazardous Material Emergency Planning and Response Act, or the
27 act of November 10, 1999 (P.L.491, No.45), known as the
28 Pennsylvania Construction Code Act, or any other act, which does
29 not expressly regulate propane and/or liquefied petroleum gas.

30 Section 20. Repeals.

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

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

6 Section 21. Effective date.

7 This act shall take effect in 60 days.