

## BILL ANALYSIS

C.S.H.B. 2172  
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Energy Resources  
Committee Report (Substituted)

### BACKGROUND AND PURPOSE

Currently, a license is issued administratively with no review of the prior operating history of that license holder. If the correct paperwork is submitted, then the RRC is required to grant an LP gas license. There have been non-compliant license holders or those who non-compliant and owe the State fines, who return to the Commission to apply for a new license under a different name. Without the ability to review the history of the applicant, the RRC must grant a new license.

HB 2172 will authorize the Railroad Commission to deny, not renew, or revoke an LPG license or application if the applicant has violated a safety-related statute, commission rule, order, license, permit or certificate; or if an owner or person in control of an applicant company has done so during the previous seven years.

### RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### ANALYSIS

SECTION 3: CHAPTER F, LICENSING AND REGISTRATION FOR AN EXEMPTION:  
DENIAL AND DISCIPLINARY ACTION.

SECTION 3: Section 113.163, Natural Resources Code

Section 113.163(a) prohibits the commission from approving an application for a license under this chapter or approved an application for a license under this chapter or approve a registration for an exemption under this Section 113.081(a) or (e) if:

- (1) the applicant or registrant for an exemption has violated a statute or commission rule, order, license, permit, or certificate that relates to the safety, or
- (2) a person who holds a position of ownership or control in the applicant or registrant for an exemption has held a position of ownership or control in another person during the seven years of preceding the date on which the application or registration for an exemption is filed and during that period of ownership or control the other person violated that relates to safety.

Section 113.163(b) establishes a violation described by Subsection (a) by an applicant, registrant for an exemption, or other person if:

- (1) a final judgment or final administrative order finding the violation has been entered against the applicant, registrant for an exemption, or other person and all appeals have been exhausted
- (2) the commission, applicant, registrant for an exemption, or other person have entered into an agreed order relating to the alleged violation.

Section 113.163(c) provides that a person holds a position of ownership or control in an applicant, registrant or other person, regardless of whether the person's name appears or is required to appear on an application or registration for an exemption, if

- (1) the person
  - (a) an officer or director of,
  - (b) a general partner of,
  - (c) the owner of a sole proprietorship,
  - (d) the owner of at least 25 percent of the beneficial interest in,
  - (e) the trustee of: the applicant, registrant for an exemption, or other person.

(2) provides that the applicant, registrant for an exemption, or other person has been determined by a final judgment or final administrative order to have exerted actual control over the applicant, registrant for an exemption, or other person.

Section 113.163(d) requires the commission to approve an license under this chapter or for a registrant for an exemption under Section 113.082(d) or (e) if,

- (1) the conditions that constituted the violation are corrected or are being corrected in accordance with a schedule to which the commission and the applicant, registrant, or other person have agreed;
- (2) all administrative, civil, and criminal penalties are paid or are being paid in accordance with a payment schedule to which the commission and the applicant, registrant, or other person have agreed; and
- (3) the application or registration is in compliance with all other requirements of law and commission rules.

Section 113.163(e) requires the commission to provide the applicant or registrant with a written statement explaining the reason for the denial if an application or registration is denied under this section.

Section 113.163(f) authorizes the commission to issue a license to an applicant described by Subsection (a) or approve a registration for an exemption for a registrant described by that subsection for a term specified by the commission if the license or registration is necessary to remedy a violation of law or commission rules, notwithstanding Subsection (a).

Section 113.163(g) provides a nonrefundable fee for denied applicants.

Section 113.136(h) authorizing the commission refuse to renew or may revoke a license or registration for an exemption issued to the applicant, licensee, or registrant under this chapter, if the commission is prohibited by Subsection (a) from approving an application for a license or a registration for an exemption or would be prohibited from doing so by that subsection if the applicant, licensee, or registrant submitted an application or registration, the commission, after notice and opportunity for a hearing. Also, prohibits the commission from refusing to renew or revoke a license or registration for an exemption under this subsection if the commission finds that the applicant, licensee, or registrant has fulfilled the conditions set out in Subsection (d).

Section 113.163(i) provides that an order must provide the applicant, licensee, or registrant a reasonable period to comply with the judgment or order finding the violation before the order takes effect.

Section 113.163(j) prohibits the person from perform any activities under the jurisdiction of the commission under this chapter, except as necessary to remedy a violation of law or commission rules and as authorized by the commission under a license or registration for an exemption issued under Subsection (f), upon refusal to renew or revocation of a person's license or registration for an exemption under Subsection (h).

Section 113.163(k) requires the commission to consider the person's history of previous violations, the seriousness of previous violations, any hazard to the health or safety of the public, and the demonstrated good faith of the person.

Section 113.163(l) provides that a person is not relieved of any existing or future duty under law, rules, or license or registration conditions by refusing to renew or revocation of a person's license or registration for an exemption under Subsection (h).

#### **EFFECTIVE DATE**

September 1, 2005

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The original bill used the term "registrant," while the committee substitute uses the term "registrant for an exemption."