86R19308 BRG-F

By:  Bailes H.B. No. 2714

Substitute the following for H.B. No. 2714:

By:  Paddie C.S.H.B. No. 2714

A BILL TO BE ENTITLED

AN ACT

relating to the registration of liquefied petroleum gas container manufacturers and the regulation of liquefied petroleum gas licensees; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  The heading to Subchapter D, Chapter 113, Natural Resources Code, is amended to read as follows:

SUBCHAPTER D. LICENSING AND REGISTRATION

SECTION 2.  Subchapter D, Chapter 113, Natural Resources Code, is amended by adding Section 113.080 to read as follows:

Sec. 113.080.  DEFINITIONS. In this subchapter:

(1)  "Carrier" means a person licensed for transportation of LP-gas by transport, including the loading and unloading of LP-gas, and the installation and repair of transport systems.

(2)  "Portable cylinder exchange service" means an operation conducted under a commission license for the sale of LP-gas in portable cylinders that are not filled on site and that have an LP-gas capacity not greater than 21 pounds.

(3)  "Retail and wholesale dealer" means a person licensed for any LP-gas activity except:

(A)  the assembly, repair, subframing, or testing of LP-gas containers; or

(B)  the sale or installation of motor fuel systems or mobile fuel systems that have an engine with a rating of more than 25 horsepower.

(4)  "Testing laboratory" means a person licensed for testing containers, motor fuel systems or mobile fuel systems, transfer systems, or transport systems for the purpose of determining the safety of the containers or systems for LP-gas service, including the necessary installation, disconnection, reconnection, testing, or repair of motor fuel systems or mobile fuel systems, transfer systems, or transport systems involved in the testing of containers.

(5)  "Transport outfitter" means a person licensed to:

(A)  subframe, test, or sell LP-gas transport containers;

(B)  test LP-gas storage containers;

(C)  install, test, or sell motor fuel containers and systems or mobile fuel containers and systems;

(D)  install transport systems; or

(E)  repair transport systems, motor fuel systems, or mobile fuel systems.

SECTION 3.  Sections 113.081(a), (b), (c), (d), and (e), Natural Resources Code, are amended to read as follows:

(a)  Unless otherwise stated in this chapter, a [~~no~~] person may not engage in any of the following activities unless that person has obtained a license from the commission authorizing that activity:

(1)  container activities: the [~~manufacture,~~] assembly, repair, testing, sale, installation, or subframing of containers for use in this state, except that a [~~no~~] license is not required for the sale of a new container of 96 pounds water capacity or less;

(2)  systems activities: the installation, service, and repair of systems for use in this state, including the laying or connecting of pipes and fittings connecting with or to systems or serving a system and appliances to be used with LP-gas [~~liquefied petroleum gas~~] as a fuel;

(3)  appliance activities: the service, installation, and repair of appliances used or to be used in this state in connection with systems using LP-gas [~~liquefied petroleum gas~~] as a fuel, except that a [~~no~~] license is not [~~shall be~~] required for installation or connection of manufactured unvented appliances to LP-gas [~~LPG~~] systems by means of LP-gas [~~LPG~~] appliance connectors, or where only duct or electrical work is performed to or on an LP-gas appliance; or

(4)  product activities: the sale, transportation, dispensation, or storage of LP-gas [~~liquefied petroleum gas~~] in this state, except that a [~~no~~] license is not [~~shall be~~] required to sell LP-gas [~~LPG~~] where the vendor never obtains possessory rights to the product sold or where the product is transported or stored by the ultimate consumer for personal consumption only.

(b)  The licensing requirements [~~provisions~~] of Subsection (a) [~~of this section do not~~] apply to a person other than a political subdivision who [~~is not engaged in business as provided in Section 113.082 of this code. A person, except a political subdivision, is considered to be engaged in business as provided in Section 113.082 of this code if such person~~] installs or services a [~~an LPG~~] motor fuel system or mobile fuel system on a motor vehicle used in the transportation of the general public. [~~The provisions of~~] Subsections (a)(1) and (a)(2) [~~of this section~~] do not apply to intermodal containers or intermodal portable tanks constructed in accordance with United States Department of Transportation specifications.

(c)  The licensing requirements of Subsection (a) do not apply to a [~~A mobile home park operator will not be deemed to be a person engaged in business as provided in Section 113.082 of this code if such~~] mobile home park operator who does not obtain any [~~obtains no~~] possessory rights to LP-gas products, and utilizes only LP-gas licensees in the installation and maintenance of the LP-gas containers and system. For purposes of this subsection, the term "mobile home park operator" means an individual or business entity owning or operating a place, divided into sites, at which the primary business is the rental or leasing of the sites to persons for use in occupying mobile homes as dwellings. "Mobile home" has the meaning set out in Chapter 1201, Occupations Code.

(d)  The commission by rule may exempt [~~from Section 113.082(a)(4) of this code~~] journeymen or master plumbers licensed by the Texas State Board of Plumbing Examiners from the license requirements of Subsection (a).

(e)  The commission by rule may exempt [~~from Section 113.082(a)(4) of this code~~] a person licensed under Chapter 1302, Occupations Code, from the license requirements of Subsection (a).

SECTION 4.  Subchapter D, Chapter 113, Natural Resources Code, is amended by adding Section 113.0815 to read as follows:

Sec. 113.0815.  REGISTRATION OF CONTAINER MANUFACTURERS AND FABRICATORS. (a) A person may not engage in the manufacture or fabrication of containers for use in this state unless the person registers with the commission in accordance with rules adopted by the commission.

(b)  A registration under this section must be renewed annually.

SECTION 5.  Section 113.082, Natural Resources Code, is amended to read as follows:

Sec. 113.082.  CATEGORIES OF LP-GAS [~~LPG~~] ACTIVITIES; FEES. (a) The commission by rule shall establish license categories for LP-gas activities [~~A prospective licensee in LPG may apply to the commission for a license to engage in any one or more of the following categories of LPG activities:~~

[~~(1)  container manufacturers/fabricators: the manufacture, fabrication, assembly, repair, installation, subframing, testing, and sale of LPG containers, including LPG motor or mobile fuel containers and systems, and the repair and installation of transport and transfer systems;~~

[~~(2)  transport outfitters: the subframing, testing, and sale of LPG transport containers, the testing of LPG storage containers, the installation, testing, and sale of LPG motor or mobile fuel containers and systems, and the installation and repair of transport systems, and motor or mobile fuel systems;~~

[~~(3)  carriers: the transportation of LPG by transport, including the loading and unloading of LPG, and the installation and repair of transport systems;~~

[~~(4)  general installers and repairmen: the sale, service, and installation of containers, excluding motor fuel containers, and the service, installation, and repair of piping, certain appliances as defined by rule, excluding recreational vehicle appliances and LPG systems, excluding motor fuel and recreational vehicle systems;~~

[~~(5)  retail and wholesale dealers: the storage, sale, transportation, and distribution of LPG at retail and wholesale, and all other activities included in this section except the manufacture, fabrication, assembly, repair, subframing, and testing of LPG containers, and except the sale and installation of LPG motor or mobile fuel systems that have an engine with a rating of more than 25 horsepower;~~

[~~(6)  cylinder filling: the operation of a cylinder-filling facility, including cylinder filling, the sale of LPG in cylinders, and the replacement of a cylinder valve;~~

[~~(7)  service station: the operation of an LPG service station filling ASME containers designed for motor and mobile fuel;~~

[~~(8)  cylinder dealers: the transportation and sale of LPG in cylinders;~~

[~~(9)  service station and cylinder filling: any service station and cylinder activity set out in Subdivisions (6) and (7);~~

[~~(10)  service station and cylinder facilities: the operation of a cylinder-filling facility, including cylinder filling and the sale, transportation, installation, and connection of LPG in cylinders, the replacement of cylinder valves, and the operation of an LPG service station as set out in Subdivision (7);~~

[~~(11)  distribution system: the sale and distribution of LPG through mains or pipes and the installation and repair of LPG systems;~~

[~~(12)  engine fuel: the sale and installation of LPG motor or mobile fuel containers, and the sale and installation of LPG motor or mobile fuel systems;~~

[~~(13)  recreational vehicle installers and repairmen: the sale, service, and installation of recreational vehicle containers, and the installation, repair, and service of recreational vehicle appliances, piping, and LPG systems, including recreational vehicle motor or mobile fuel systems and containers;~~

[~~(14)  manufactured housing installers and repairmen: the service and installation of containers that supply fuel to manufactured housing, and the installation, repair, and service of appliances and piping systems for manufactured housing;~~

[~~(15)  testing laboratory: the testing of an LP-gas container, LP-gas motor fuel systems or mobile fuel systems, transfer systems, and transport systems for the purpose of determining the safety of the container or systems for LP-gas service, including the necessary installation, disconnection, reconnecting, testing, and repair of LPG motor fuel systems or mobile fuel systems, transfer systems, and transport systems involved in the testing of containers; or~~

[~~(16)  portable cylinder exchange: the operation of a portable cylinder exchange service, where the sale of LP-gas is within a portable cylinder with an LP-gas capacity not to exceed 21 pounds; the portable cylinders are not filled on site, and no other LP-gas activity requiring a license is conducted~~].

(b)  The commission by rule shall establish reasonable application and original license fees and renewal fees for each type of license category established under Subsection (a) [~~listed in this section~~].

SECTION 6.  Section 113.084(b), Natural Resources Code, is amended to read as follows:

(b)  A prospective licensee shall submit the required application together with the original nonrefundable license fee established by the commission under Section 113.082 for each type of license category for which an application is made. The applicant shall submit additional information and data with each application as the commission may reasonably require.

SECTION 7.  Sections 113.087(c), (d), and (g), Natural Resources Code, are amended to read as follows:

(c)  An [~~Each~~] individual who will be actively supervising [~~those~~] operations that require a [~~requiring any~~] license under this chapter, other than a portable cylinder exchange service [~~a license under Section 113.082(a)(16)~~], at any outlet or location, [~~as designated by the commission,~~] shall be required to provide good and sufficient proof through examination that the supervisor has a working knowledge of the safety requirements and penalties in this chapter and the rules of the commission which apply to that type of license.  A [~~Each~~] licensee [~~under Section 113.082(a)(5)~~] who provides portable cylinders to a licensee operating a portable cylinder exchange service [~~under Section 113.082(a)(16)~~] shall:

(1)  prepare or obtain a manual approved by the commission covering the proper procedures for handling LP-gas in the portable cylinder exchange process;

(2)  provide a copy of the manual to each outlet or location of the licensee operating the portable cylinder exchange service [~~under Section 113.082(a)(16)~~]; and

(3)  provide training approved by the commission regarding the contents of the manual to each individual who will be actively supervising operation of the portable cylinder exchange service [~~operations requiring a license under Section 113.082(a)(16)~~] at each outlet or location.

(d)  As determined by commission rule, each individual who is or will be utilized by a licensee or a public employee of the state, the federal government, or a state or federal subdivision in LPG-related activities shall be required to provide good and sufficient proof through examination that the employee has a working knowledge of the safety requirements in the rules of the commission relating to the activity or activities.  Should the commission determine that an individual has a history of failure to comply with the requirements of this code or with the rules of the commission, the commission shall promptly notify the individual in writing [~~mail written notification~~] of failure to qualify for LP-gas employee certification and the reasons therefor [~~to the registrant~~].  Written notice by the commission, a written request for a hearing, and the public hearing itself shall be governed by Section 113.091.

(g)  In no event shall an original or renewal license be issued to an applicant whose listed representative has not maintained qualified status, as defined by rule, or to any person who has a history of failure to comply with the requirements of this code or with the rules of the commission. The commission shall have written notification of license denial and the reasons therefor prepared promptly and provided [~~mailed~~] to both the representative and the license applicant. Written notice by the commission, a written request for a hearing, and the public hearing itself shall be governed by Section 113.091 [~~of this code~~].

SECTION 8.  Sections 113.089(a) and (c), Natural Resources Code, are amended to read as follows:

(a)  If application is made for a license by a retail and wholesale dealer [~~under Section 113.082(a)(5)~~] or for any other type of license specified by commission rule, the commission, in addition to other requirements, shall have an actual inspection conducted of any and all facilities, bulk storage equipment, transportation equipment, and dispensing equipment of the applicant to verify satisfactory compliance with all current safety laws, rules, and practices. The inspection may be waived by the commission on an application resulting solely from a change in legal entities under which a current licensee operates.

(c)  A license for which an inspection under Subsection (a) is required may [~~under Section 113.082(a)(5) and any other type of license specified by commission rule shall~~] not be issued until the inspection [~~under Subsection (a) of this section~~] verifies the applicant to be in satisfactory compliance with all current safety laws, rules, and practices.

SECTION 9.  Section 113.091(a), Natural Resources Code, is amended to read as follows:

(a)  If [~~Should~~] an applicant fails [~~fail~~] to meet the requirements for original or renewal licensing set out in this chapter, the commission shall promptly send notice to the applicant specifying [~~have written notification prepared promptly and mailed to the applicant. The notice shall specify~~] the reason for the applicant's failure to qualify for license and advising [~~advise~~] the applicant of the right to request a hearing.

SECTION 10.  Sections 113.097(a), (b), (c), (d), (f), and (h), Natural Resources Code, are amended to read as follows:

(a)  The commission shall not issue a license authorizing LP-gas activities [~~under Section 113.082 of this code~~] or renew an existing license unless the applicant for license or license renewal provides proof of required insurance coverage with an insurance carrier authorized to do business in this state as evidenced by a certificate of authority having been issued to the carrier by the Texas Department of Insurance or, if the applicant is unable to obtain coverage from such a carrier, provides, on approval of the commission, proof of required insurance coverage issued by a surplus lines insurer that meets the requirements of Chapter 981, Insurance Code, and rules adopted by the commissioner of insurance under that chapter.

(b)  A licensee may [~~shall~~] not perform an LP-gas [~~any licensed~~] activity licensed by the commission [~~under Section 113.082 of this code~~] unless the insurance coverage required by this chapter is in effect.

(c)  Except as provided in Section 113.099 [~~of this code~~], the types and amounts of insurance provided in Subsections (d) through (i) [~~of this section~~] are required while engaged in an LP-gas activity licensed by the commission [~~any of the activities set forth in Section 113.082 of this code~~] or any activity incidental thereto.

(d)  A person licensed to transport LP-gas [~~Each licensee under Section 113.082(a)(3), (5), (8), or (10)~~] must carry motor vehicle bodily injury and property damage liability coverage on each motor vehicle, including trailers and semitrailers, used to transport LP-gas. The commission shall establish by rule a reasonable amount of coverage to be maintained, except that coverage may [~~shall~~] not be less than the amounts required as evidence of financial responsibility under Chapter 601, Transportation Code.

(f)  A [~~Each~~] licensee, other than a licensee operating a portable cylinder exchange service [~~category "P" licensee~~], must acquire and maintain appropriate workers' compensation or coverage for its employees under policies of work-related accident, disability, and health insurance, including coverage for death benefits, from an insurance carrier authorized to provide coverage in this state, in the amounts required by the commission.

(h)  As required by commission rule, a person registered under Section 113.0815 or licensed as a transport outfitter, carrier, retail and wholesale dealer, or testing laboratory [~~licensee under Section 113.082(a)(1), (2), (3), (5), or (15)~~] must carry completed operations or products liability insurance, or both, in a reasonable amount, based on the type or types of registered or licensed activities.

SECTION 11.  Sections 113.099(a) and (d), Natural Resources Code, are amended to read as follows:

(a)  A person licensed to transport LP-gas [~~licensee or an applicant for a license under Section 113.082(a)(3), (5), (8), or (10)~~] that does not operate or contemplate the operation of a motor vehicle equipped with an LP-gas cargo container and does not transport or contemplate the transportation of LP-gas by vehicle in any manner, may make and file with the commission a statement to that effect in lieu of filing a certificate of motor vehicle bodily injury and property damage insurance.

(d)  A person registered under Section 113.0815 or licensed as a transport outfitter, carrier, retail and wholesale dealer, or testing laboratory [~~licensee or an applicant for a license under Section 113.082(a)(1), (2), (3), (5), or (15)~~] that does not engage in or contemplate engaging in any LP-gas operations which would be covered by completed operations or products liability insurance, or both, for a period of time may make and file with the commission a statement to that effect in lieu of filing a certificate of insurance.

SECTION 12.  Not later than January 1, 2020, the Railroad Commission of Texas shall adopt rules required by Chapter 113, Natural Resources Code, as amended by this Act.

SECTION 13.  This Act takes effect September 1, 2019.