

By: Bailes

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

1 systems or mobile fuel systems that have an engine with a rating of
2 more than 25 horsepower.

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

11 (5) "Transport outfitter" means a person licensed to:
12 (A) subframe, test, or sell LP-gas transport
13 containers;
14 (B) test LP-gas storage containers;
15 (C) install, test, or sell motor fuel containers
16 and systems or mobile fuel containers and systems;
17 (D) install transport systems; or
18 (E) repair transport systems, motor fuel
19 systems, or mobile fuel systems.

20 SECTION 3. Section 113.081, Natural Resources Code, is
21 amended by amending Subsections (a), (b), (c), (d), and (e) and
22 adding Subsection (h) to read as follows:

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

27 (1) container activities: the ~~manufacture,~~

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

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

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

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

24 (b) The licensing requirements [~~provisions~~] of Subsection
25 (a) [~~of this section do not~~] apply to a person other than a
26 political subdivision who [~~is not engaged in business as provided~~
27 ~~in Section 113.082 of this code. A person, except a political~~

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

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

21 (d) The commission by rule may exempt ~~[from Section~~
22 ~~113.082(a)(4) of this code]~~ journeymen or master plumbers licensed
23 by the Texas State Board of Plumbing Examiners from the license
24 requirements of Subsection (a).

25 (e) The commission by rule may exempt ~~[from Section~~
26 ~~113.082(a)(4) of this code]~~ a person licensed under Chapter 1302,
27 Occupations Code, from the license requirements of Subsection (a).

1 (h) A person operating a portable cylinder exchange service
2 may not engage in another LP-gas activity requiring a license at the
3 same location as the service.

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

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

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

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

15 Sec. 113.082. CATEGORIES OF LP-GAS [~~LPG~~] ACTIVITIES; FEES.

16 (a) The commission by rule shall establish license categories for
17 LP-gas activities [~~A prospective licensee in LPG may apply to the~~
18 ~~commission for a license to engage in any one or more of the~~
19 ~~following categories of LPG activities:~~

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

25 [~~(2) transport outfitters: the subframing, testing,~~
26 ~~and sale of LPG transport containers, the testing of LPG storage~~
27 ~~containers, the installation, testing, and sale of LPG motor or~~

1 ~~mobile fuel containers and systems, and the installation and repair~~
2 ~~of transport systems, and motor or mobile fuel systems;~~

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

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

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

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

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

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

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

1 and ~~(7)~~,

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

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

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

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

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

23 ~~[(15) testing laboratory: the testing of an LP-gas~~
24 ~~container, LP-gas motor fuel systems or mobile fuel systems,~~
25 ~~transfer systems, and transport systems for the purpose of~~
26 ~~determining the safety of the container or systems for LP-gas~~
27 ~~service, including the necessary installation, disconnection,~~

1 ~~reconnecting, testing, and repair of LPG motor fuel systems or~~
2 ~~mobile fuel systems, transfer systems, and transport systems~~
3 ~~involved in the testing of containers, or~~

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

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

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

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

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

23 (c) An [~~Each~~] individual who will be actively supervising
24 [~~these~~] operations that require a [~~requiring any~~] license under
25 this chapter, other than a portable cylinder exchange service [~~a~~
26 ~~license under Section 113.082(a)(16)]], at any outlet or location,
27 [~~as designated by the commission,~~] shall be required to provide~~

1 good and sufficient proof through examination that the supervisor
2 has a working knowledge of the safety requirements and penalties in
3 this chapter and the rules of the commission which apply to that
4 type of license. A [~~Each~~] licensee [~~under Section 113.082(a)(5)~~]
5 who provides portable cylinders to a licensee operating a portable
6 cylinder exchange service [~~under Section 113.082(a)(16)~~] shall:

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

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

13 (3) provide training approved by the commission
14 regarding the contents of the manual to each individual who will be
15 actively supervising operation of the portable cylinder exchange
16 service [~~operations requiring a license under Section~~
17 ~~113.082(a)(16)~~] at each outlet or location.

18 (d) As determined by commission rule, each individual who is
19 or will be utilized by a licensee or a public employee of the state,
20 the federal government, or a state or federal subdivision in
21 LPG-related activities shall be required to provide good and
22 sufficient proof through examination that the employee has a
23 working knowledge of the safety requirements in the rules of the
24 commission relating to the activity or activities. Should the
25 commission determine that an individual has a history of failure to
26 comply with the requirements of this code or with the rules of the
27 commission, the commission shall promptly notify the individual in

1 writing [~~mail written notification~~] of failure to qualify for
2 LP-gas employee certification and the reasons therefor [~~to the~~
3 ~~registrant~~]. Written notice by the commission, a written request
4 for a hearing, and the public hearing itself shall be governed by
5 Section 113.091.

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

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

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

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

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

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

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

18 (a) The commission shall not issue a license authorizing
19 LP-gas activities [~~under Section 113.082 of this code~~] or renew an
20 existing license unless the applicant for license or license
21 renewal provides proof of required insurance coverage with an
22 insurance carrier authorized to do business in this state as
23 evidenced by a certificate of authority having been issued to the
24 carrier by the Texas Department of Insurance or, if the applicant is
25 unable to obtain coverage from such a carrier, provides, on
26 approval of the commission, proof of required insurance coverage
27 issued by a surplus lines insurer that meets the requirements of

1 Chapter 981, Insurance Code, and rules adopted by the commissioner
2 of insurance under that chapter.

3 (b) A licensee may [~~shall~~] not perform an LP-gas [~~any~~
4 ~~licensed~~] activity licensed by the commission [~~under Section~~
5 ~~113.082 of this code~~] unless the insurance coverage required by
6 this chapter is in effect.

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

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

22 (f) A [~~Each~~] licensee, other than a licensee operating a
23 portable cylinder exchange service [~~category "P" licensee~~], must
24 acquire and maintain appropriate workers' compensation or coverage
25 for its employees under policies of work-related accident,
26 disability, and health insurance, including coverage for death
27 benefits, from an insurance carrier authorized to provide coverage

1 in this state, in the amounts required by the commission.

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

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

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

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

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

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