

1-1 By: Bailes, Harris (Senate Sponsor - Birdwell) H.B. No. 2714
 1-2 (In the Senate - Received from the House April 11, 2019;
 1-3 April 15, 2019, read first time and referred to Committee on
 1-4 Natural Resources & Economic Development; April 25, 2019, reported
 1-5 favorably by the following vote: Yeas 10, Nays 0; April 25, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to the registration of liquefied petroleum gas container
 1-23 manufacturers and the regulation of liquefied petroleum gas
 1-24 licensees; authorizing fees.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. The heading to Subchapter D, Chapter 113,
 1-27 Natural Resources Code, is amended to read as follows:

1-28 SUBCHAPTER D. LICENSING AND REGISTRATION

1-29 SECTION 2. Subchapter D, Chapter 113, Natural Resources
 1-30 Code, is amended by adding Section 113.080 to read as follows:

1-31 Sec. 113.080. DEFINITIONS. In this subchapter:

1-32 (1) "Carrier" means a person licensed for
 1-33 transportation of LP-gas by transport, including the loading and
 1-34 unloading of LP-gas, and the installation and repair of transport
 1-35 systems.

1-36 (2) "Portable cylinder exchange service" means an
 1-37 operation conducted under a commission license for the sale of
 1-38 LP-gas in portable cylinders that are not filled on site and that
 1-39 have an LP-gas capacity not greater than 21 pounds.

1-40 (3) "Retail and wholesale dealer" means a person
 1-41 licensed for any LP-gas activity except:

1-42 (A) the assembly, repair, subframing, or testing
 1-43 of LP-gas containers; or

1-44 (B) the sale or installation of motor fuel
 1-45 systems or mobile fuel systems that have an engine with a rating of
 1-46 more than 25 horsepower.

1-47 (4) "Testing laboratory" means a person licensed for
 1-48 testing containers, motor fuel systems or mobile fuel systems,
 1-49 transfer systems, or transport systems for the purpose of
 1-50 determining the safety of the containers or systems for LP-gas
 1-51 service, including the necessary installation, disconnection,
 1-52 reconnection, testing, or repair of motor fuel systems or mobile
 1-53 fuel systems, transfer systems, or transport systems involved in
 1-54 the testing of containers.

1-55 (5) "Transport outfitter" means a person licensed to:

1-56 (A) subframe, test, or sell LP-gas transport
 1-57 containers;

1-58 (B) test LP-gas storage containers;

1-59 (C) install, test, or sell motor fuel containers
 1-60 and systems or mobile fuel containers and systems;

1-61 (D) install transport systems; or

2-1 (E) repair transport systems, motor fuel
 2-2 systems, or mobile fuel systems.

2-3 SECTION 3. Sections 113.081(a), (b), (c), (d), and (e),
 2-4 Natural Resources Code, are amended to read as follows:

2-5 (a) Unless otherwise stated in this chapter, a ~~[no]~~ person
 2-6 may not engage in any of the following activities unless that person
 2-7 has obtained a license from the commission authorizing that
 2-8 activity:

2-9 (1) container activities: the ~~[manufacture]~~
 2-10 assembly, repair, testing, sale, installation, or subframing of
 2-11 containers for use in this state, except that a ~~[no]~~ license is not
 2-12 required for the sale of a new container of 96 pounds water capacity
 2-13 or less;

2-14 (2) systems activities: the installation, service,
 2-15 and repair of systems for use in this state, including the laying or
 2-16 connecting of pipes and fittings connecting with or to systems or
 2-17 serving a system and appliances to be used with LP-gas ~~[liquefied~~
 2-18 ~~petroleum gas]~~ as a fuel;

2-19 (3) appliance activities: the service, installation,
 2-20 and repair of appliances used or to be used in this state in
 2-21 connection with systems using LP-gas ~~[liquefied petroleum gas]~~ as a
 2-22 fuel, except that a ~~[no]~~ license is not ~~[shall be]~~ required for
 2-23 installation or connection of manufactured unvented appliances to
 2-24 LP-gas ~~[LPG]~~ systems by means of LP-gas ~~[LPG]~~ appliance connectors,
 2-25 or where only duct or electrical work is performed to or on an
 2-26 LP-gas appliance; or

2-27 (4) product activities: the sale, transportation,
 2-28 dispensation, or storage of LP-gas ~~[liquefied petroleum gas]~~ in
 2-29 this state, except that a ~~[no]~~ license is not ~~[shall be]~~ required to
 2-30 sell LP-gas ~~[LPG]~~ where the vendor never obtains possessory rights
 2-31 to the product sold or where the product is transported or stored by
 2-32 the ultimate consumer for personal consumption only.

2-33 (b) The licensing requirements ~~[provisions]~~ of Subsection
 2-34 (a) ~~[of this section do not]~~ apply to a person other than a
 2-35 political subdivision who ~~[is not engaged in business as provided~~
 2-36 ~~in Section 113.082 of this code. A person, except a political~~
 2-37 ~~subdivision, is considered to be engaged in business as provided in~~
 2-38 ~~Section 113.082 of this code if such person]~~ installs or services a
 2-39 ~~[an LPG] motor fuel system~~ or mobile fuel system on a motor vehicle
 2-40 used in the transportation of the general public. ~~[The provisions~~
 2-41 ~~of] Subsections (a)(1) and (a)(2) [of this section]~~ do not apply to
 2-42 intermodal containers or intermodal portable tanks constructed in
 2-43 accordance with United States Department of Transportation
 2-44 specifications.

2-45 (c) The licensing requirements of Subsection (a) do not
 2-46 apply to a ~~[A mobile home park operator will not be deemed to be a~~
 2-47 ~~person engaged in business as provided in Section 113.082 of this~~
 2-48 ~~code if such]~~ mobile home park operator who does not obtain any
 2-49 ~~[obtains no]~~ possessory rights to LP-gas products, and utilizes
 2-50 only LP-gas licensees in the installation and maintenance of the
 2-51 LP-gas containers and system. For purposes of this subsection, the
 2-52 term "mobile home park operator" means an individual or business
 2-53 entity owning or operating a place, divided into sites, at which the
 2-54 primary business is the rental or leasing of the sites to persons
 2-55 for use in occupying mobile homes as dwellings. "Mobile home" has
 2-56 the meaning set out in Chapter 1201, Occupations Code.

2-57 (d) The commission by rule may exempt ~~[from Section~~
 2-58 ~~113.082(a)(4) of this code]~~ journeymen or master plumbers licensed
 2-59 by the Texas State Board of Plumbing Examiners from the license
 2-60 requirements of Subsection (a).

2-61 (e) The commission by rule may exempt ~~[from Section~~
 2-62 ~~113.082(a)(4) of this code]~~ a person licensed under Chapter 1302,
 2-63 Occupations Code, from the license requirements of Subsection (a).

2-64 SECTION 4. Subchapter D, Chapter 113, Natural Resources
 2-65 Code, is amended by adding Section 113.0815 to read as follows:

2-66 Sec. 113.0815. REGISTRATION OF CONTAINER MANUFACTURERS AND
 2-67 FABRICATORS. (a) A person may not engage in the manufacture or
 2-68 fabrication of containers for use in this state unless the person
 2-69 registers with the commission in accordance with rules adopted by

3-1 the commission.

3-2 (b) A registration under this section must be renewed
 3-3 annually.

3-4 SECTION 5. Section 113.082, Natural Resources Code, is
 3-5 amended to read as follows:

3-6 Sec. 113.082. CATEGORIES OF LP-GAS [LPG] ACTIVITIES; FEES.

3-7 (a) The commission by rule shall establish license categories for
 3-8 LP-gas activities [A prospective licensee in LPG may apply to the
 3-9 commission for a license to engage in any one or more of the
 3-10 following categories of LPG activities:

3-11 ~~[(1) container manufacturers/fabricators: the~~
 3-12 ~~manufacture, fabrication, assembly, repair, installation,~~
 3-13 ~~subframing, testing, and sale of LPG containers, including LPG~~
 3-14 ~~motor or mobile fuel containers and systems, and the repair and~~
 3-15 ~~installation of transport and transfer systems;~~

3-16 ~~[(2) transport outfitters: the subframing, testing,~~
 3-17 ~~and sale of LPG transport containers, the testing of LPG storage~~
 3-18 ~~containers, the installation, testing, and sale of LPG motor or~~
 3-19 ~~mobile fuel containers and systems, and the installation and repair~~
 3-20 ~~of transport systems, and motor or mobile fuel systems;~~

3-21 ~~[(3) carriers: the transportation of LPG by~~
 3-22 ~~transport, including the loading and unloading of LPG, and the~~
 3-23 ~~installation and repair of transport systems;~~

3-24 ~~[(4) general installers and repairmen: the sale,~~
 3-25 ~~service, and installation of containers, excluding motor fuel~~
 3-26 ~~containers, and the service, installation, and repair of piping,~~
 3-27 ~~certain appliances as defined by rule, excluding recreational~~
 3-28 ~~vehicle appliances and LPG systems, excluding motor fuel and~~
 3-29 ~~recreational vehicle systems;~~

3-30 ~~[(5) retail and wholesale dealers: the storage, sale,~~
 3-31 ~~transportation, and distribution of LPG at retail and wholesale,~~
 3-32 ~~and all other activities included in this section except the~~
 3-33 ~~manufacture, fabrication, assembly, repair, subframing, and~~
 3-34 ~~testing of LPG containers, and except the sale and installation of~~
 3-35 ~~LPG motor or mobile fuel systems that have an engine with a rating~~
 3-36 ~~of more than 25 horsepower;~~

3-37 ~~[(6) cylinder filling: the operation of a~~
 3-38 ~~cylinder-filling facility, including cylinder filling, the sale of~~
 3-39 ~~LPG in cylinders, and the replacement of a cylinder valve;~~

3-40 ~~[(7) service station: the operation of an LPG service~~
 3-41 ~~station filling ASME containers designed for motor and mobile fuel;~~

3-42 ~~[(8) cylinder dealers: the transportation and sale of~~
 3-43 ~~LPG in cylinders;~~

3-44 ~~[(9) service station and cylinder filling: any~~
 3-45 ~~service station and cylinder activity set out in Subdivisions (6)~~
 3-46 ~~and (7);~~

3-47 ~~[(10) service station and cylinder facilities: the~~
 3-48 ~~operation of a cylinder-filling facility, including cylinder~~
 3-49 ~~filling and the sale, transportation, installation, and connection~~
 3-50 ~~of LPG in cylinders, the replacement of cylinder valves, and the~~
 3-51 ~~operation of an LPG service station as set out in Subdivision (7);~~

3-52 ~~[(11) distribution system: the sale and distribution~~
 3-53 ~~of LPG through mains or pipes and the installation and repair of LPG~~
 3-54 ~~systems;~~

3-55 ~~[(12) engine fuel: the sale and installation of LPG~~
 3-56 ~~motor or mobile fuel containers, and the sale and installation of~~
 3-57 ~~LPG motor or mobile fuel systems;~~

3-58 ~~[(13) recreational vehicle installers and repairmen:~~
 3-59 ~~the sale, service, and installation of recreational vehicle~~
 3-60 ~~containers, and the installation, repair, and service of~~
 3-61 ~~recreational vehicle appliances, piping, and LPG systems,~~
 3-62 ~~including recreational vehicle motor or mobile fuel systems and~~
 3-63 ~~containers;~~

3-64 ~~[(14) manufactured housing installers and repairmen:~~
 3-65 ~~the service and installation of containers that supply fuel to~~
 3-66 ~~manufactured housing, and the installation, repair, and service of~~
 3-67 ~~appliances and piping systems for manufactured housing;~~

3-68 ~~[(15) testing laboratory: the testing of an LP-gas~~
 3-69 ~~container, LP-gas motor fuel systems or mobile fuel systems,~~

4-1 ~~transfer systems, and transport systems for the purpose of~~
 4-2 ~~determining the safety of the container or systems for LP-gas~~
 4-3 ~~service, including the necessary installation, disconnection,~~
 4-4 ~~reconnecting, testing, and repair of LPG motor fuel systems or~~
 4-5 ~~mobile fuel systems, transfer systems, and transport systems~~
 4-6 ~~involved in the testing of containers; or~~

4-7 ~~[(16) portable cylinder exchange: the operation of a~~
 4-8 ~~portable cylinder exchange service, where the sale of LP-gas is~~
 4-9 ~~within a portable cylinder with an LP-gas capacity not to exceed 21~~
 4-10 ~~pounds; the portable cylinders are not filled on site, and no other~~
 4-11 ~~LP-gas activity requiring a license is conducted].~~

4-12 (b) The commission by rule shall establish reasonable
 4-13 application and original license fees and renewal fees for each
 4-14 type of license category established under Subsection (a) [~~listed~~
 4-15 ~~in this section~~].

4-16 SECTION 6. Section 113.084(b), Natural Resources Code, is
 4-17 amended to read as follows:

4-18 (b) A prospective licensee shall submit the required
 4-19 application together with the original nonrefundable license fee
 4-20 established by the commission under Section 113.082 for each type
 4-21 of license category for which an application is made. The applicant
 4-22 shall submit additional information and data with each application
 4-23 as the commission may reasonably require.

4-24 SECTION 7. Sections 113.087(c), (d), and (g), Natural
 4-25 Resources Code, are amended to read as follows:

4-26 (c) An [~~Each~~] individual who will be actively supervising
 4-27 [~~those~~] operations that require a [~~requiring any~~] license under
 4-28 this chapter, other than a portable cylinder exchange service [~~a~~
 4-29 ~~license under Section 113.082(a)(16)~~], at any outlet or location,
 4-30 [~~as designated by the commission,~~] shall be required to provide
 4-31 good and sufficient proof through examination that the supervisor
 4-32 has a working knowledge of the safety requirements and penalties in
 4-33 this chapter and the rules of the commission which apply to that
 4-34 type of license. A [~~Each~~] licensee [~~under Section 113.082(a)(5)~~]
 4-35 who provides portable cylinders to a licensee operating a portable
 4-36 cylinder exchange service [~~under Section 113.082(a)(16)~~] shall:

4-37 (1) prepare or obtain a manual approved by the
 4-38 commission covering the proper procedures for handling LP-gas in
 4-39 the portable cylinder exchange process;

4-40 (2) provide a copy of the manual to each outlet or
 4-41 location of the licensee operating the portable cylinder exchange
 4-42 service [~~under Section 113.082(a)(16)~~]; and

4-43 (3) provide training approved by the commission
 4-44 regarding the contents of the manual to each individual who will be
 4-45 actively supervising operation of the portable cylinder exchange
 4-46 service [~~operations requiring a license under Section~~
 4-47 ~~113.082(a)(16)~~] at each outlet or location.

4-48 (d) As determined by commission rule, each individual who is
 4-49 or will be utilized by a licensee or a public employee of the state,
 4-50 the federal government, or a state or federal subdivision in
 4-51 LPG-related activities shall be required to provide good and
 4-52 sufficient proof through examination that the employee has a
 4-53 working knowledge of the safety requirements in the rules of the
 4-54 commission relating to the activity or activities. Should the
 4-55 commission determine that an individual has a history of failure to
 4-56 comply with the requirements of this code or with the rules of the
 4-57 commission, the commission shall promptly notify the individual in
 4-58 writing [~~mail written notification~~] of failure to qualify for
 4-59 LP-gas employee certification and the reasons therefor [~~to the~~
 4-60 ~~registrant~~]. Written notice by the commission, a written request
 4-61 for a hearing, and the public hearing itself shall be governed by
 4-62 Section 113.091.

4-63 (g) In no event shall an original or renewal license be
 4-64 issued to an applicant whose listed representative has not
 4-65 maintained qualified status, as defined by rule, or to any person
 4-66 who has a history of failure to comply with the requirements of this
 4-67 code or with the rules of the commission. The commission shall have
 4-68 written notification of license denial and the reasons therefor
 4-69 prepared promptly and provided [~~mailed~~] to both the representative

5-1 and the license applicant. Written notice by the commission, a
 5-2 written request for a hearing, and the public hearing itself shall
 5-3 be governed by Section 113.091 [~~of this code~~].

5-4 SECTION 8. Sections 113.089(a) and (c), Natural Resources
 5-5 Code, are amended to read as follows:

5-6 (a) If application is made for a license by a retail and
 5-7 wholesale dealer [~~under Section 113.082(a)(5)~~] or for any other
 5-8 type of license specified by commission rule, the commission, in
 5-9 addition to other requirements, shall have an actual inspection
 5-10 conducted of any and all facilities, bulk storage equipment,
 5-11 transportation equipment, and dispensing equipment of the
 5-12 applicant to verify satisfactory compliance with all current safety
 5-13 laws, rules, and practices. The inspection may be waived by the
 5-14 commission on an application resulting solely from a change in
 5-15 legal entities under which a current licensee operates.

5-16 (c) A license for which an inspection under Subsection (a)
 5-17 is required may [~~under Section 113.082(a)(5) and any other type of~~
 5-18 ~~license specified by commission rule shall~~] not be issued until the
 5-19 inspection [~~under Subsection (a) of this section~~] verifies the
 5-20 applicant to be in satisfactory compliance with all current safety
 5-21 laws, rules, and practices.

5-22 SECTION 9. Section 113.091(a), Natural Resources Code, is
 5-23 amended to read as follows:

5-24 (a) If [~~Should~~] an applicant fails [~~fail~~] to meet the
 5-25 requirements for original or renewal licensing set out in this
 5-26 chapter, the commission shall promptly send notice to the applicant
 5-27 specifying [~~have written notification prepared promptly and mailed~~
 5-28 ~~to the applicant. The notice shall specify~~] the reason for the
 5-29 applicant's failure to qualify for license and advising [~~advise~~]
 5-30 the applicant of the right to request a hearing.

5-31 SECTION 10. Sections 113.097(a), (b), (c), (d), (f), and
 5-32 (h), Natural Resources Code, are amended to read as follows:

5-33 (a) The commission shall not issue a license authorizing
 5-34 LP-gas activities [~~under Section 113.082 of this code~~] or renew an
 5-35 existing license unless the applicant for license or license
 5-36 renewal provides proof of required insurance coverage with an
 5-37 insurance carrier authorized to do business in this state as
 5-38 evidenced by a certificate of authority having been issued to the
 5-39 carrier by the Texas Department of Insurance or, if the applicant is
 5-40 unable to obtain coverage from such a carrier, provides, on
 5-41 approval of the commission, proof of required insurance coverage
 5-42 issued by a surplus lines insurer that meets the requirements of
 5-43 Chapter 981, Insurance Code, and rules adopted by the commissioner
 5-44 of insurance under that chapter.

5-45 (b) A licensee may [~~shall~~] not perform an LP-gas [~~any~~
 5-46 ~~licensed~~] activity licensed by the commission [~~under Section~~
 5-47 ~~113.082 of this code~~] unless the insurance coverage required by
 5-48 this chapter is in effect.

5-49 (c) Except as provided in Section 113.099 [~~of this code~~],
 5-50 the types and amounts of insurance provided in Subsections (d)
 5-51 through (i) [~~of this section~~] are required while engaged in an
 5-52 LP-gas activity licensed by the commission [~~any of the activities~~
 5-53 ~~set forth in Section 113.082 of this code~~] or any activity
 5-54 incidental thereto.

5-55 (d) A person licensed to transport LP-gas [~~Each licensee~~
 5-56 ~~under Section 113.082(a)(3), (5), (8), or (10)~~] must carry motor
 5-57 vehicle bodily injury and property damage liability coverage on
 5-58 each motor vehicle, including trailers and semitrailers, used to
 5-59 transport LP-gas. The commission shall establish by rule a
 5-60 reasonable amount of coverage to be maintained, except that
 5-61 coverage may [~~shall~~] not be less than the amounts required as
 5-62 evidence of financial responsibility under Chapter 601,
 5-63 Transportation Code.

5-64 (f) A [~~Each~~] licensee, other than a licensee operating a
 5-65 portable cylinder exchange service [~~category "P" licensee~~], must
 5-66 acquire and maintain appropriate workers' compensation or coverage
 5-67 for its employees under policies of work-related accident,
 5-68 disability, and health insurance, including coverage for death
 5-69 benefits, from an insurance carrier authorized to provide coverage

6-1 in this state, in the amounts required by the commission.

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

6-9 SECTION 11. Sections 113.099(a) and (d), Natural Resources
6-10 Code, are amended to read as follows:

6-11 (a) A person licensed to transport LP-gas [~~licensee or an~~
6-12 ~~applicant for a license under Section 113.082(a)(3), (5), (8), or~~
6-13 ~~(10)] that does not operate or contemplate the operation of a motor
6-14 vehicle equipped with an LP-gas cargo container and does not
6-15 transport or contemplate the transportation of LP-gas by vehicle in
6-16 any manner, may make and file with the commission a statement to
6-17 that effect in lieu of filing a certificate of motor vehicle bodily
6-18 injury and property damage insurance.~~

6-19 (d) A person registered under Section 113.0815 or licensed
6-20 as a transport outfitter, carrier, retail and wholesale dealer, or
6-21 testing laboratory [~~licensee or an applicant for a license under~~
6-22 ~~Section 113.082(a)(1), (2), (3), (5), or (15)] that does not engage
6-23 in or contemplate engaging in any LP-gas operations which would be
6-24 covered by completed operations or products liability insurance, or
6-25 both, for a period of time may make and file with the commission a
6-26 statement to that effect in lieu of filing a certificate of
6-27 insurance.~~

6-28 SECTION 12. Not later than January 1, 2020, the Railroad
6-29 Commission of Texas shall adopt rules required by Chapter 113,
6-30 Natural Resources Code, as amended by this Act.

6-31 SECTION 13. This Act takes effect September 1, 2019.

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