

### Part 3 Liquefied Petroleum Gas Act

#### 53-7-301 Short title.

This part is known as the "Liquefied Petroleum Gas Act."

Enacted by Chapter 234, 1993 General Session

#### 53-7-302 Definitions.

As used in this part:

- (1) "Board" means the Liquefied Petroleum Gas Board created in Section 53-7-304.
- (2) "Container" means any vessel, including cylinders, tanks, portable tanks, and cargo tanks used for transporting or storing liquefied petroleum gases, except containers subject to regulation and inspection by the Department of Transportation and under federal laws or regulations.
- (3) "Distributor" means any person engaged in the distribution of liquefied petroleum gas, either wholesale or retail, including a commercial carrier, as identified by the Department of Transportation or the Interstate Commerce Commission, who transports or hauls liquefied petroleum gas that is to be distributed or sold within this state.
- (4) "Enforcing authority" means the division, the municipal or county fire department, another fire-prevention agency acting within its jurisdiction, or the building official of any city or county and his authorized representatives.
- (5) "Final consumer" means an individual or business who is the ultimate user of LPG.
- (6) "Gas appliance" means any device that uses liquefied petroleum gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.
- (7) "Installer" means any person who has satisfactorily passed an examination under the supervision of the board, testing his knowledge and ability to install or properly repair domestic systems, industrial systems, liquefied petroleum gas carburetion systems, bulk plant systems, standby plant systems, or other similar systems, and who holds an installer's certificate under this part.
- (8) "Licensee" means a person licensed by the board to engage in the liquefied petroleum gas business.
- (9) "Liquefied petroleum gas" means any material having a vapor pressure not exceeding that allowed for commercial propane and composed predominantly of the following hydrocarbons, either by themselves or as mixtures: propane, propylene, butane, normal butane, or isobutane, and butylene, including isomers.
- (10) "Liquefied petroleum gas carburetion system" means any carburetion system using liquefied petroleum gas as a fuel in a motor vehicle.
- (11) "Liquefied petroleum gas fueling system" means an assembly consisting of compressors, containers, piping, and other delivery devices for the purpose of dispensing liquefied petroleum gas for use as a fuel in a motor vehicle.
- (12) "LPG" means liquefied petroleum gas.
- (13) "Person" means any individual, firm, partnership, joint venture, association, corporation, estate, trust, or any other group or combination acting as a unit, and includes:
  - (a) a husband, wife, or both where joint benefits are derived from the operation of a business or activity subject to this part; and
  - (b) any state, county, municipality, or other agency engaged in a business or activity subject to this part.

- (14) "Red tag" means a card or device, red in color, containing printed notice of the condemnation of a liquefied petroleum gas system as a result of a violation of this part, or any rules or orders made by the board; the tag, when attached to the system, is official notice of condemnation and of the prohibition of further use, so long as the red tag remains lawfully affixed.
- (15) "System" means an assembly consisting of one or more containers with a means for conveying LPG from the container or containers to dispensing or consuming devices, either continuously or intermittently, and that incorporates components intended to achieve control of quantity, flow, and pressure or state, either liquid or vapor.

Amended by Chapter 373, 2012 General Session

**53-7-303 Exclusions from part.**

This part does not apply to any of the following:

- (1) the production, refining, or manufacture of LPG;
- (2) the storage, sale, or transportation of LPG by pipeline or railroad tank car by a pipeline company, producer, refiner, or manufacturer;
- (3) equipment used by a pipeline company, producer, refiner, or manufacturer in a producing, refining, or manufacturing process or in the storage, sale, or transportation by pipeline or railroad tank car;
- (4) any deliveries of LPG to another person at the place of production, refining, or manufacturing;
- (5) underground storage facilities other than LPG containers designed for underground use;
- (6) refineries, pipeline terminals, or natural gas processing plants.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-304 Liquefied Petroleum Gas Board -- Creation -- Composition -- Appointment -- Terms of officers -- Meetings -- Compensation.**

- (1)
  - (a) There is created within the division the Liquefied Petroleum Gas Board.
  - (b) The board is composed of seven members:
    - (i) two Utah fire chiefs or marshals;
    - (ii) two members of the general public; and
    - (iii) three members who are representatives of the LPG industry.
- (2) The fire chiefs or marshals and the members of the general public shall be appointed by the governor, on a nonpartisan basis.
- (3) Members of the board who are representatives of the LPG industry shall have been legal residents of the state for at least one year immediately preceding the date of appointment and have been actively engaged in the LPG industry for a period of at least five years.
- (4) The LPG industry representatives shall be appointed by the governor from a list of at least five but no more than the 12 nominees receiving the largest number of votes according to written ballots executed by representatives of the licensees under Subsection (7).
- (5)
  - (a) Except as required by Subsection (5)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.
  - (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
  - (c) Members serve from the date of appointment until a replacement is appointed.

- (6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (7)
  - (a) The balloting of licensees shall be conducted by the division.
  - (b) For the appointments, the division shall forward to each licensee an official ballot for each staffed plant or facility held under Section 53-7-309, with instructions for executing the ballot and returning it to the division.
  - (c) The division shall send the official ballot and instructions described in Subsection (7)(b) by:
    - (i) registered or certified United States mail; or
    - (ii) email.
- (8)
  - (a) The board shall elect its own chair and vice chair at its first regular meeting each calendar year.
  - (b) All meetings of the board shall be held on a prescribed date, at least quarterly, and at any time a majority of the board members sends a request to the board chair.
  - (c) A majority of the members of the board is a quorum for the transaction of business.
- (9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 101, 2015 General Session

**53-7-305 Board rulemaking -- Notice.**

- (1)
  - (a) The board shall make rules as reasonably necessary for the protection of the health, welfare, and safety of the public and persons using LPG.
  - (b) The rules shall be in substantial conformity with the generally accepted standards of safety concerning LPG, and shall include the following conditions:
    - (i) the rules relating to safety in the storage, distribution, dispensing, transporting, and use of LPG in this state and in the manufacture, fabrication, assembly, sale, installation, and use of LPG systems, containers, apparatus, or appliances shall be reasonable; and
    - (ii) the rules shall conform as nearly as possible to the standards of the National Fire Protection Association, relating to the design, construction, installation, and use of systems, containers, apparatus, appliances, and pertinent equipment for the storage, transportation, dispensation, and use of LPG.
- (2) The board may make rules:
  - (a) setting minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck or tank trailer, or using LPG;
  - (b) specifying the odorization of the gases and the degree of odorization;
  - (c) governing LPG distributors and installers and the installation of LPG systems, carburetion systems, and fueling systems; and
  - (d) prescribing maximum container removal rates.
- (3)
  - (a) When a proposed rule is filed, the board shall give at least 10 days' notice to all license applicants and licensees under this chapter by sending a notice of the proposed new, revised,

or amended rule together with a notice of hearing to the licensee's current address on file with the board.

- (b) Any person affected by rulemaking under this part may submit comment, in a format prescribed by the board, on the rule.
- (c) A certificate citing the adoption and the effective date of a rule shall be signed by the members comprising a majority of the board.
- (d) Within 10 days after the adoption of the rule, the board shall send to each license applicant or licensee, at his current address on file, a notice of the adoption of the rule, including its effective date.
- (e) A facsimile of any member's signature may be used under this section if authorized by the member.

Amended by Chapter 25, 2001 General Session

**53-7-306 Duties and powers of the board -- Fee setting.**

- (1) The board shall monitor rates charged in the industry for container removal.
- (2) The board may:
  - (a) set civil penalties for violation of any rule or order made under this part;
  - (b) in conducting hearings on the issuance or revocation of any license:
    - (i) compel the attendance of witnesses by subpoena;
    - (ii) require the production of any records or documents determined by it to be pertinent to the subject matter of the hearing; and
    - (iii) apply to the district court of the county where the hearing is held for an order citing any applicant or witness for contempt, and for failure to attend, testify, or produce required documents;
  - (c) suspend or revoke licenses and refuse renewals of licenses if the applicant or licensee has been guilty of conduct harmful to either the safety or protection of the public;
  - (d) adopt bylaws for its procedures and methods of operation; and
  - (e) at the request of the enforcing authority, grant exceptions from its rules to accommodate local needs as it determines to be in the best interest of public safety or the persons using LPG materials or services.
- (3) The board shall, in accordance with Section 53-7-314, establish fees to cover the cost of administering this section.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-307 Duties of the division.**

The division shall:

- (1) prescribe the method and form to apply for, or renew, a LPG license or certificate, with the approval of the board;
- (2) investigate the experience, reputation, and background of applicants and persons who hold a license or certificate and who are applying for renewal;
- (3) recommend to the board issuing, renewing, suspending, revoking, and denying licenses or certificates;
- (4) assist the board in conducting hearings in connection with the applications for, renewal of, suspension of, or revocation of, licenses or certificates;

- (5) submit to the governor a biennial report before September 1 of each even-numbered year, covering the board's transactions during the biennium ending June 30 of that year, including a complete statement of the receipts and expenditures of the board during that period;
- (6) keep accurate records and minutes of all meetings, which shall be open to public inspection at all reasonable times, and keep a public record of all applications for licenses and licenses issued by the board;
- (7) conduct examinations of every license applicant to determine the responsibility, ability, knowledge, experience, or other qualifications of the applicant for a license;
- (8) require competency testing for all employees and subcontractors of licensees engaged in transporting or dispensing LPG or installing, servicing, or repairing an LPG fueling or carburetion system under this part;
- (9) prepare applications, collect fees, and issue licenses for any facility that handles LPG;
- (10) provide for or direct the inspection of the site of any facility that stores, dispenses, services, or handles LPG;
- (11) provide inspections to any facility where a qualified authority does not exist; and
- (12) prepare and administer examinations, collect fees, and issue LPG certificates to personnel who handle or work with LPG.

Amended by Chapter 247, 2013 General Session

### **53-7-308 Licenses and certificates.**

A person may not engage in any of the following activities related to LPG unless the person has obtained an authorizing license or certification from the board:

- (1) container activities, including the manufacture, assembly, repair, sale, installation, or subframing of containers for use in this state, except that a license is not required for the sale of new containers of 96 pounds water capacity or less;
- (2) systems activities, including:
  - (a) the installation, service, or repair of LPG systems for use in this state; and
  - (b) laying or connecting of pipes and fittings connecting with or to systems or servicing a system and appliances to be used with LPG as a fuel;
- (3) appliance activities, including the service, installation, or repair of appliances used or to be used in this state in connection with systems using LPG as a fuel; or
- (4) product activities, including the sale, transportation, dispensation, or storage of LPG in this state, except that a license or certification is not required for a person:
  - (a) who sells LPG but does not obtain possessory rights to the product sold; or
  - (b) when the product is stored, transferred, or used by the final consumer.

Amended by Chapter 373, 2012 General Session

### **53-7-309 Classification of applicants and licensees.**

- (1) To administer this part, the board shall classify all applicants and licensees as follows:
  - (a) Class 1: a licensed dealer who:
    - (i) is engaged in the business of installing gas appliances or systems for the use of LPG;
    - (ii) sells, fills, refills, delivers, or is permitted to deliver any LPG; or
    - (iii) is involved under both Subsections (1)(a)(i) and (ii).
  - (b) Class 2: a business engaged in the sale, transportation, and exchange of cylinders, or engaged in more than one of these, but not transporting or transferring gas in liquid.

- (c) Class 3: a business not engaged in the sale of LPG, but engaged in the sale and installation of gas appliances or LPG systems.
  - (d) Class 4: those businesses not specifically within classification 1, 2, or 3 may at the discretion of the board be issued special licenses.
- (2)
- (a) Any license granted under this section entitles the licensee to operate a staffed plant or facility consistent with the license at one location, which is stated in the license, under Section 53-7-310.
  - (b) For each additional staffed plant or facility owned or operated by the licensee, the licensee shall register the additional location with the board and pay an additional annual fee, to be set in accordance with Section 53-7-314.

Amended by Chapter 324, 2010 General Session

**53-7-310 License specifications and limits.**

- (1)
- (a) A license issued under this part shall state the name of the person or persons to whom it is issued.
  - (b) The license shall specify the location, by street and number, of the premises for which it is issued and the particular classification of the license authorizing the type of staffed plant or facility to be conducted.
  - (c) The registration of additional staffed plants or facilities, under Subsection 53-7-309(2), shall specify the location, by street and number, of the premises for which it is issued and the particular classification of the license authorizing the type of business to be conducted.
- (2)
- (a) Any license issued under this part is not transferable by the licensee or licensees to any other person, firm, association, partnership, or corporation, and is valid only for the particular premises and particular persons described on the license.
  - (b) If there is any transfer or change in the ownership, the change shall be reported to the board within 30 days.
  - (c) A license or registration fee paid under this part may not be refunded when any license issued is no longer valid because of:
    - (i) a voluntary transfer of any nature;
    - (ii) revocation under this part;
    - (iii) death of the holder;
    - (iv) insolvency;
    - (v) assignment for the benefit of creditors; or
    - (vi) for any other reason determined by rule of the board.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-311 Certification of licensees for certain activities.**

- (1) A person that transports or dispenses LPG or that installs, repairs, or services appliances, containers, equipment, systems, or piping for the use of LPG shall be certified by the division by passing an appropriate examination based on the safety requirements of the board.
- (2)

- (a) A trainee employee is exempt from this examination for 45 working days, and until examined by a representative of the board. A trainee employee, during the 45-day period, shall be supervised by a qualified instructor.
  - (b) Any LPG licensee hiring a trainee shall, within 20 days of the commencement of employment, notify the board, so that an examination may be scheduled. If the trainee fails to pass the examination, the trainee may retake it after additional instruction. Prior to retaking the exam, the trainee shall again be supervised by a qualified instructor.
- (3)
- (a) The board shall establish a reasonable fee in accordance with Section 53-7-314 to cover the costs of administering the examination.
  - (b) All examinations shall be administered by the division.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-312 Division approval of certain storage system plans -- Procedure.**

- (1)
- (a) The complete plans and specifications for all systems involving the storage of more than 5,000 water gallons of LPG shall be submitted to the division by a person licensed under this part, and receive approval by the division before installation is started. The plans shall be drawn to scale and contain sufficient detail and clarity as necessary to indicate the nature and character of the proposed system and its compliance with this part.
  - (b) Two copies of the plans shall be submitted to the division and one copy shall be returned to the applicant with approval or disapproval indicated on it.
- (2)
- (a) For dispensing systems for 5,000 water gallons or less of LPG, a detailed sketch or plan shall be submitted to the division by a person licensed under this part, and receive approval by the division before installation is started.
  - (b) Two copies of the plans shall be submitted to the division and one copy shall be returned to the applicant with approval or disapproval indicated on it.

Amended by Chapter 14, 1995 General Session

**53-7-313 Removal of LPG containers -- Reasonableness of rates.**

- (1) Rates charged for removal of leased LPG containers shall be reasonable.
- (2) The lessor of an LPG container shall credit the lessee's account the current retail price for the amount of LPG remaining in the leased container at the time the container is removed.

Renumbered and Amended by Chapter 234, 1993 General Session

**53-7-314 Fees -- Setting -- Deposit -- Use.**

- (1) The board shall establish fees authorized in this part in accordance with the procedures specified in Section 63J-1-504, but the fees shall be deposited as provided in Subsection (2).
- (2) Fees collected by the division under this part, shall be deposited with the state treasurer as a dedicated credit, to be used for the implementation of this part.

Amended by Chapter 391, 2010 General Session

**53-7-315 Enforcement of part and rules.**

- (1) Except as provided in Subsection (6), this part, the rules made under it, and orders issued by the board are enforced by:
  - (a) the enforcing authority, unless otherwise provided by the board; and
  - (b) the board.
- (2)
  - (a) A person who knowingly violates or fails to comply with this part is guilty of a class B misdemeanor and is punishable by a fine of not less than \$50 nor more than \$500.
  - (b) A person previously convicted under Subsection (2)(a) who knowingly violates or fails to comply with this part is guilty of a class B misdemeanor and is punishable by a fine of not less than \$200 nor more than \$2,000.
  - (c) Each day the violation or failure to comply continues constitutes a separate offense.
- (3) The enforcing authority may enter the premises of a licensee under this part, or any building or other premises open to the public, at any reasonable time, for the purpose of determining and verifying compliance with this part and the rules and orders of the board.
- (4) An enforcing authority may declare any container, appliance, equipment, transport, or system that does not conform to the safety requirements of this part or the rules or orders of the board, or that is otherwise defective, as unsafe or dangerous for LPG service, and shall attach a red tag in a conspicuous location.
- (5)
  - (a) A person who knowingly sells, furnishes, delivers, or supplies LPG for storage in, or use or consumption by, or through, a container, appliance, transport, or system to which a red tag is attached is guilty of a class B misdemeanor punishable by a fine of not less than \$100 and not more than \$2,000.
  - (b) Liquefied petroleum gas shall be removed from a container to which a red tag is attached only as provided by rules made by the board.
  - (c) An unauthorized person who knowingly removes, destroys, or in any way obliterates a red tag attached to a container, appliance, transport, or system is guilty of a class B misdemeanor punishable by a fine of not less than \$50 and not more than \$2,000.
  - (d) The enforcing authority may establish and collect a fee for any services or inspections required by this part, the rules made under it, and orders issued by the board. The fee shall be reasonable and may not exceed the amount of the cost of service or inspection provided. Fees collected under this subsection may be retained by the enforcing authority, and shall be applied to the expenses of providing these services.
- (6)
  - (a) Except as provided in Subsection (6)(c), a person who fills a leased container in violation of the terms of a written lease is liable in an action by the container lessor for the greater of:
    - (i) the actual damages to the container lessor, including incidental and consequential damages and attorneys' fees; or
    - (ii) \$500 for each violation.
  - (b)
    - (i) The burden of ascertaining the terms of a written lease for purposes of Subsection (6)(a) is on the person filling the container.
    - (ii) A person has ascertained the terms of a written lease if he has:
      - (A) read the lease;
      - (B) received the assurance of the container owner that the lease does not prohibit the person from filling the container;
      - (C) obtained a signed, written statement from the lessee that the written lease does not prohibit the person from filling the container; or



- (D) the leased container is clearly labelled as a container subject to lease terms prohibiting the filling of the container without the lessor's permission.
- (c) If a lessee or lessor misrepresents his ownership or the terms of his written lease under Subsection (6)(b), the lessee or lessor who made the misrepresentation, and not the person filling the tank, is liable for the damages under Subsection (6)(a).
- (7) If a written container lease entered into after May 1, 1992, restricts the right to fill a leased container, the restriction shall be plainly stated in the lease in any manner designed to draw the attention of the lessee to the lease provision, including:
  - (a) typing the restriction in at least two point larger type than the majority of the document type;
  - (b) underlining the restriction; or
  - (c) typing the restriction in boldface type.
- (8) A lessor whose container lease does not comply with Subsection (7) is disqualified from protection under Subsection (6).

Amended by Chapter 324, 2010 General Session

**53-7-316 Effect of part on state and local provision.**

- (1) This part supersedes all other conflicting state laws or rules concerning LPG as regulated under this part.
- (2) A municipality or other political subdivision may not adopt or enforce any ordinance or rule in conflict with this part, or with the rules made under this part.

Renumbered and Amended by Chapter 234, 1993 General Session