

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 733 of the Regular Session

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: S3/23/07

A Bill

SENATE BILL 994

5 By: Senator Wilkinson  
6 By: Representatives Wells, Breedlove  
7  
8

9 **For An Act To Be Entitled**

10 AN ACT TO CREATE A STATEWIDE PERMIT FOR PROPANE  
11 DEALERS; AND FOR OTHER PURPOSES.  
12

13 **Subtitle**

14 AN ACT TO CREATE A STATEWIDE PERMIT FOR  
15 PROPANE DEALERS.  
16  
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 *SECTION 1. Arkansas Code § 15-75-201(b), concerning the appointment  
21 and term of a board member, is amended to read as follows:*

22 *(b)(1) There shall be one (1) member appointed by the Governor from  
23 each congressional district, as they existed on January 1, 2007.*

24 *~~(2) Terms of office of the six (6) members so appointed shall be~~  
25 ~~six (6) years~~ There shall be three (3) at-large members appointed by the  
26 Governor.*

27 *~~(3)(A)(i) The seventh member of the board shall be appointed by~~  
28 ~~the Governor from the state at large for a term of two (2) years~~ A board  
29 member appointed before the effective date of this section shall serve the  
30 remainder of his or her previously appointed six-year term.*

31 *(ii) For a board member appointed after the  
32 effective date of this section, the term of office shall be four (4) years.*

33 *(B)(i) No board member appointed after the effective date  
34 of this section may serve more than two (2) consecutive four-year terms.*

35 *(ii) Subdivision (b)(3)(B)(i) of this section does*



1 not preclude a former board member from serving again if he or she has not  
 2 served as a member of the board for at least four (4) consecutive years.

3 (4) The board shall have at least one (1) member who:

4 (A) ~~represents~~ Represents the general public; and

5 (B) ~~who is~~ Is not employed by, ~~or engaged in,~~ or retired  
 6 from the liquefied petroleum gas industry in any manner, ~~nor shall they have~~  
 7 ~~retired from it.~~

8  
 9 SECTION 2. Arkansas Code § 15-75-204(b), concerning the term of an  
 10 officer of the board, is amended to read as follows:

11 (b) No such officer shall serve in the same capacity for more than one  
 12 (1) year during ~~any six year~~ his or her term.

13  
 14 SECTION 3. Arkansas Code § 15-75-206(b), concerning the authority of  
 15 the Liquefied Petroleum Gas Board, is amended to read as follows:

16 (b) The ~~board~~ director shall have the authority to:

17 (1) Employ assistants, inspectors, and other personnel; and

18 (2) Retain counsel as may be necessary to aid it properly in the  
 19 administration of this subchapter, with the approval of the board.

20  
 21 SECTION 4. Arkansas Code § 15-75-304 is amended to read as follows:

22 15-75-304. Certificates of competency - Qualifications.

23 (a) To be entitled to a "certificate of competency," a person must  
 24 have:

25 (1) Satisfactory experience in the liquefied petroleum gas  
 26 business or must give proof of previous on-the-job training in the liquefied  
 27 petroleum gas business satisfactory to the Liquefied Petroleum Gas Board as  
 28 prescribed by its rules and regulations;

29 (2) Had not less than thirty (30) days' experience in the  
 30 liquefied petroleum gas installation or transportation business; and

31 (3) Passed a written or oral examination as prescribed by the  
 32 board.

33 (b) ~~Persons who have been unemployed in the liquefied petroleum gas~~  
 34 ~~business for more than one (1) year must be recertified by the board through~~  
 35 ~~a current written or oral examination as prescribed by rules and regulations~~  
 36 ~~of the board.~~

1       ~~(e)~~ All new class one employees must attend a forty-hour basic course  
2 in liquefied petroleum gas, as prescribed by the board, within the first year  
3 of their employment or their certification certificate will be suspended  
4 until the course has been completed.

5       ~~(d)~~(c) All class one employees who change from one class one employer  
6 to another class one employer who has not previously had the forty-hour basic  
7 training course, as prescribed by the board, must do so within one year of  
8 the transfer date of employment or their certification certificate will be  
9 suspended until the course has been completed.

10       ~~(e)~~(d) The board may accept as its own a reciprocal state's  
11 transportation and delivery examination for transport drivers only ~~which~~ that  
12 contains substantially equivalent requirements as those required by the  
13 board. Substantial uniformity shall be demonstrated by a letter from the  
14 issuing authority of the state or a copy of a current and valid card issued  
15 by the reciprocal state. All applicable fees shall be paid to the board prior  
16 to issuance of the certification card.

17  
18       SECTION 5. Arkansas Code § 15-75-305(f)(2), concerning the  
19 qualifications of an applicant for a permit, is amended to read as follows:

20               (2) Applicants must agree to furnish whatever information  
21 the director or the board may require as to their ~~financial condition,~~  
22 ~~character,~~ and ability to engage in the liquefied petroleum gas business and  
23 must also furnish whatever references the director or the board may require.

24  
25       SECTION 6. Arkansas Code § 15-75-306(b), concerning a class one  
26 permit, is amended to read as follows:

27       (b) All class one permit application approvals must have all  
28 prerequisites met and the permit issued within ~~six (6) months~~ one (1) year of  
29 approval. If not issued within ~~six (6) months~~ one (1) year of approval, the  
30 application will be returned to the applicant and a new application must be  
31 submitted to the director thirty (30) days prior to the date of the regular  
32 meeting at which the review of the director's action on the application is to  
33 be considered.

34  
35       SECTION 7. Arkansas Code § 15-75-307 is amended to read as follows:

36       15-75-307. Class one permit.

1 (a) The holder of a class one permit+  
 2 ~~(1) May~~ may engage in any phase of the liquefied petroleum gas  
 3 business in a county or contiguous counties if he or she pays an annual  
 4 permit fee of five hundred dollars (\$500) for the first county under the  
 5 permit and three hundred dollars (\$300) for each contiguous county included  
 6 under the permit; and

7 ~~(2) Must pay an annual permit fee in the sum of three hundred~~  
 8 ~~dollars (\$300).~~

9 (b) An applicant for a class one permit:

10 (1) ~~Must~~ Shall furnish to the Liquefied Petroleum Gas Board  
 11 evidence of the following insurance:

12 (A) Manufacturers' and Contractors' Bodily Injury  
 13 Liability Insurance

14 Each Person \$500,000

15 Each Accident 500,000

16 (B) Manufacturers' and Contractors' Property Damage  
 17 Liability Insurance

18 Each Accident \$500,000

19 Aggregate 500,000

20 (C) Products Bodily Injury Liability Insurance

21 Each Person \$500,000

22 Each Accident 500,000

23 Aggregate 500,000

24 (D) Products Property Damage Liability Insurance

25 Each Person \$500,000

26 Aggregate 500,000

27 (E) Automobile Bodily Injury Liability Insurance

28 Each Person \$500,000

29 Each Accident 500,000

30 (F) Automobile Property Damage Liability Insurance

31 Each Accident \$500,000

32 ~~(2)(A) Must provide a financial statement which has been~~  
 33 ~~compiled within the past sixty (60) days by a public accountant~~ Shall  
 34 designate a county in this state for:

35 (i) The location of the proposed principal place of  
 36 business of the applicant; and

1                    (ii) The proposed location of the principal bulk  
2 storage tank facility; and

3                    (B) Shall maintain a twenty-four (24) hour emergency  
4 telephone number;

5                    (3)(A) ~~Must provide a map outlining the exact territory or area~~  
6 list of counties in which the operation is to be conducted.

7                    ~~(B) The territory map shall designate on an approved map~~  
8 ~~three (3) Arkansas counties.~~

9                    ~~(C)(i)(i)~~ (i) The applicant shall designate within one (1)  
10 Arkansas county the location of the proposed principal place of business of  
11 the applicant and the proposed location of the principal bulk storage tank  
12 facility.

13                    (ii) The designated county shall be the home county  
14 area of operation of the applicant.

15                    ~~(D)(i) The application shall designate on the approved map~~  
16 ~~two (2) counties adjoining and contiguous to the home county.~~

17                    ~~(ii) The two (2) adjoining counties shall be within~~  
18 ~~the area of operation of the applicant, but the applicant shall not be~~  
19 ~~required to locate facilities within those two (2) adjoining counties.~~

20                    ~~(E)(C)~~ (C) The permit fee shall be paid for each county in  
21 which the applicant operates;

22                    (4)(A) ~~Must~~ Shall provide full-time employment of qualified  
23 personnel whose competency shall be proven through a current written or oral  
24 examination.

25                    (B) There shall be a minimum of three (3) employees.

26                    (C) For each permit, one (1) employee shall be certified  
27 as a general safety supervisor and one (1) employee shall be certified as an  
28 installation personnel.

29                    (D) One (1) employee may be certified as both transport  
30 and delivery/installation, a combination certification, but that combination  
31 certification shall not relieve the requirement for a minimum of three (3)  
32 employees;

33                    (5)(A) ~~Must~~ Shall provide a bulk storage capacity of not less  
34 than thirty thousand (30,000) water gallons at the principal location of the  
35 permitted facility, the location of which must be approved by the board in  
36 advance of the application and which must be maintained by the applicant in

1 safe working condition throughout the duration of the permit applied for  
2 under penalty of permit forfeiture by action of the board.

3 (B) Storage containers being used in connection with  
4 cotton gins, rice dryers, manufacturing plants, or any other type commercial  
5 use, regardless of size, will not be accepted as bulk storage and cannot be  
6 included in the requirements for the thirty thousand (30,000) gallons  
7 storage;

8 (C)(i) ~~An applicant must~~ Shall maintain a one (1) place  
9 of business within ~~one (1) of the three (3) permitted counties~~ the state that  
10 ~~which~~ shall be the principal working location for the employees of the  
11 permitted facility; and

12 (ii) ~~must maintain posted office hours at the~~  
13 ~~principal working location~~ Shall maintain a posted twenty-four (24) hour  
14 emergency telephone number;

15 (6)(A) ~~Must~~ Shall provide approved-type cylinder or bottle-  
16 filling facilities consisting of a separate pump, the capacity of which shall  
17 not be in excess of twenty (20) gallons per minute and shall be designed for  
18 the primary purpose of filling bottles.

19 (B) Where a manifold or multiple filling system is  
20 contemplated, the board shall be consulted regarding pump capacity;

21 (7) ~~Must~~ Shall provide equipment satisfactory to the board;

22 (8)(A) ~~Must~~ Shall provide switch track or tank loading and  
23 unloading facilities satisfactory to the board.

24 (B) All auxiliary equipment such as pumps, hoses,  
25 electrical switches, etc., shall be Underwriters' Laboratory-approved for  
26 liquefied petroleum gases; and

27 (9) In addition to the foregoing requirements, all class one  
28 applicants must comply with all other applicable requirements.

29  
30 SECTION 8. Arkansas Code § 15-75-320 is amended to read as follows:  
31 15-75-320. Sales restrictions.

32 ~~(a)~~ No dealer shall sell or offer for sale liquefied petroleum gas or  
33 conduct liquefied petroleum gas operations of any type in any area of this  
34 state in which ~~competent~~ certified personnel are not readily available for  
35 proper and efficient service to the users' containers, systems, or  
36 appurtenances.

1           ~~(b)(1) Beginning on July 1, 1999, the Liquefied Petroleum Gas Board~~  
2 ~~shall review the service areas for each dealer who has been issued a current~~  
3 ~~permit for the purpose of reviewing evidence establishing the area in which~~  
4 ~~domestic liquefied petroleum gas operations were being conducted in general~~  
5 ~~as of July 1, 1999.~~

6           ~~(2) On July 1, 1999, each dealer who has a current permit which~~  
7 ~~allowed service in a service area which runs into a particular county will be~~  
8 ~~presumed competent to continue to provide service in that area and in any~~  
9 ~~area throughout that county, regardless of whether or not they have~~  
10 ~~facilities in that county. The entire county will automatically be~~  
11 ~~grandfathered into the authorized area of operation for the permit. Each~~  
12 ~~dealer shall pay a permit fee in the amount of three hundred dollars (\$300)~~  
13 ~~for each class one permit location for each full county in which they desire~~  
14 ~~to continue to operate. Provided, however, any dealer with a current class~~  
15 ~~one permit as of July 1, 1999, who desires to continue operations only within~~  
16 ~~their previously authorized service area and thereby to pay a single permit~~  
17 ~~fee in the amount of four hundred dollars (\$400) for that service area, shall~~  
18 ~~be authorized to operate within the previously authorized service area until~~  
19 ~~such time as the dealer ceases operation or until he or she desires to~~  
20 ~~provide more extensive service to an area of operations based on whole county~~  
21 ~~areas.~~

22           ~~(3) Beginning on July 1, 1999, and thereafter, each person~~  
23 ~~applying for a permit to sell or offer for sale liquefied petroleum gas or~~  
24 ~~conduct of liquefied petroleum gas operations shall apply to provide service~~  
25 ~~to the entire area of a whole county. Each person applying for service in a~~  
26 ~~county shall have adequate storage facilities, as determined by the Director~~  
27 ~~of the Liquefied Petroleum Gas Board and the board, for the conduct of~~  
28 ~~liquefied petroleum gas operations within the county or counties in which~~  
29 ~~they are to serve. In deciding issues of the adequacy of service and~~  
30 ~~facilities, the safety of the general public shall be the primary concern of~~  
31 ~~the director and the board.~~

32           ~~(e)(b)~~ Each existing or new permit issued by the board shall designate  
33 accurately the county or counties in which the holder may conduct liquefied  
34 petroleum gas operations.

35           ~~(d)(c)~~ No dealer shall sell or offer for sale liquefied petroleum gas  
36 or conduct liquefied petroleum gas operations of any type in any county or

1 counties not shown on and authorized by a current permit.

2 ~~(e)(d)(1) Any dealer desiring to enlarge or expand liquefied petroleum~~  
3 ~~gas service beyond the designated county or counties authorized by a current~~  
4 ~~permit shall first obtain approval from the director with review by the board~~  
5 ~~for a new permit at its next regularly scheduled meeting his or her permitted~~  
6 ~~counties may add a contiguous county to his or her permit by:~~

7 (A) Providing thirty (30) days written notice of his  
8 or her intention to the director; and

9 (B) Paying a permit fee of three hundred dollars  
10 (\$300) for each additional county to be included under the permit.

11 (2) The director shall report any additional counties  
12 included under a class one permit issued under subdivision (d)(1) of this  
13 section to the board at its next meeting.

14 ~~(f) Each auxiliary, subsidiary, or branch operation by dealers and any~~  
15 ~~new county of operation not covered by an existing permit shall require a~~  
16 ~~separate permit.~~

17 ~~(g) After July 1, 1999, each county of operation for which application~~  
18 ~~is made shall constitute an individual class one permit and requires an~~  
19 ~~annual permit fee of three hundred dollars (\$300).~~

20 ~~(h)(1) Any otherwise qualified dealer who does not elect to operate in~~  
21 ~~the entire county and pay the required permit fee for the entire county as~~  
22 ~~outlined in subdivision (b)(2) of this section before December 31, 2001,~~  
23 ~~shall be presumed to elect to operate in the area of operation defined in the~~  
24 ~~previously authorized area of operation on file before July 1, 1999, in the~~  
25 ~~records of the board and shall not be permitted to select a county wide~~  
26 ~~service area thereafter.~~

27 ~~(2) After December 31, 2001, additional permitted areas of~~  
28 ~~operation shall be by new application only.~~

30 /s/ Wilkinson

32 APPROVED: 3/30/2007