

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

As Engrossed: S3/11/99 S3/22/99 H4/7/99

# A Bill

SENATE BILL 907

5 By: Senator Fitch  
6  
7

## For An Act To Be Entitled

9 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE  
10 TITLE 15, CHAPTER 75, REGARDING THE LIQUIFIED GAS  
11 PETROLEUM BOARD, TO REVISE THE MEMBERSHIP OF THE  
12 BOARD, TO AUTHORIZE THE DIRECTOR TO *APPROVE*  
13 *APPLICATIONS FOR PERMITS*, TO LOWER THE REGISTRATION  
14 FEES FOR CLASS 1 PERMITS, AND TO CHANGE THE SERVICE  
15 AREAS TO EQUAL A COUNTY AREA; AND FOR OTHER PURPOSES."

## Subtitle

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17  
18 "AN ACT TO AMEND VARIOUS SECTIONS OF THE  
19 ARKANSAS CODE TITLE 15, CHAPTER 75,  
20 REGARDING THE LIQUIFIED GAS PETROLEUM  
21 BOARD."

22  
23  
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25  
26 SECTION 1. Arkansas Code § 15-75-201 is amended to read as follows:

27 "15-75-201. Members.

28 (a) The Liquefied Petroleum Gas Board shall consist of seven (7)  
29 members who are residents of the State of Arkansas, at least twenty-one (21)  
30 years of age, of good moral character, and who shall be appointed by the  
31 Governor and confirmed by the Senate.

32 (b) There shall be one (1) member appointed by the Governor from each  
33 of the ~~six (6) congressional districts existing in the state prior to the~~  
34 ~~enactment of Acts 1961, No. 5 [superseded]~~. Terms of office of the six (6)  
35 members so appointed shall be six (6) years. The seventh member of the board  
36 shall be appointed by the Governor from the state at large for a term of two

1 (2) years. Beginning with the appointment of each member after July 1, 1999,  
2 each appointment to the board shall be a person who represents the general  
3 public and who is not employed by, engaged in the liquefied petroleum gas  
4 industry in any manner, nor shall they have retired from it and those  
5 appointments shall continue until the board has at least two (2) members who  
6 are not from the liquefied petroleum gas industry.

7 (c) After appointment and before entering upon their respective duties,  
8 each member of the board shall take and subscribe and file in the office of  
9 the Secretary of State the oath of office prescribed by Arkansas Constitution,  
10 Article 19, § 20.

11 (d) Members of the board shall not receive compensation for their  
12 services but may receive expense reimbursement and stipends in accordance with  
13 § 25-16-901 et seq."

14  
15 SECTION 2. Arkansas Code § 15-75-202 is amended to read as follows:  
16 "15-75-202. Meetings.

17 (a) The board shall adopt and may modify rules for the conduct of its  
18 business and shall keep a record of its transactions.

19 (b) Meetings shall be at the call of the chairman, or of the vice  
20 chairman if he is for any reason the acting chairman, either at his own  
21 instance or upon the written request of at least four (4) members.

22 (c) A quorum shall consist of not less than four (4) members present at  
23 any regular or special meeting, and a majority affirmative vote of such number  
24 shall be necessary for the disposition of any business.

25 (d) No meeting shall be for a longer period of time than is absolutely  
26 necessary to transact the business of the board.

27 (e) The board shall meet at least ~~semi-annually~~ once in each calendar  
28 quarter, but no more than one (1) meeting shall be held during any ~~one hundred~~  
29 ~~twenty-day~~ sixty-day period for which any member is to receive compensation or  
30 reimbursement of expenses incurred."

31  
32 SECTION 3. Arkansas Code § 15-75-206 is amended to read as follows:  
33 "15-75-206. Personnel - Counsel.

34 (a) The board shall appoint a Director of the Liquefied Petroleum Gas  
35 Board to serve with the approval and at the pleasure of the Governor.

36 (b) The board shall have authority to:

- 1 (1) Employ assistants, inspectors, and other personnel; and
- 2 (2) Retain counsel as may be necessary to aid it properly in the
- 3 administration of this subchapter.

4 (c) The Director of the Liquefied Petroleum Gas Board shall have the  
5 power and duty to receive applications for, to review and approve applications  
6 for all classes of permits, after applications and supporting papers have been  
7 filed with the director for at least thirty (30) days, and to issue permits  
8 with board approval after all conditions for the permits have been met. The  
9 director may refuse to approve applications for permits for safety reasons.

10 (d) The director's decisions on the approval of the application for  
11 permits may be reviewed by the board at its next regularly scheduled meeting.  
12 Decisions regarding the issuance of permits shall be reviewed and approved by  
13 the board after conditions for the permit are met and prior to the issuing the  
14 permit."

15  
16 SECTION 4. Arkansas Code § 15-75-301 is amended to read as follows:

17 "15-75-301. Definitions.

18 As used in this act, unless the context otherwise requires:

19 (1) "Permits" means the written authorization granted by the ~~board~~  
20 director with the board's approval to persons to engage in the liquefied  
21 petroleum gas business; ~~and~~

22 (2) "Certificate of competency" means approval by the board of the  
23 employees to be placed in charge of operations, service, installation, and  
24 transportation by permit holders; ~~and~~

25 (3) "Director" means the Director of the Liquefied Petroleum Gas Board  
26 appointed by the board and serving with the approval and at the pleasure of  
27 the Governor.

28  
29 SECTION 5. Arkansas Code § 15-75-302 is amended to read as follows:

30 "15-75-302. Annual permit required.

31 (a) Every person, as a condition to his right to store, sell, or  
32 transport liquefied petroleum gases in this state or to his right to install  
33 systems or to sell or install containers for the use of liquefied petroleum  
34 gases, or to engage in the business of liquefied petroleum gases generally,  
35 shall first obtain a permit from the ~~board~~ director with the board's approval  
36 as herein prescribed.

1 (b) Each permit shall be renewed annually."  
2

3 SECTION 6. Arkansas Code §15-75-305 is amended to read as follows:

4 "15-75-305. Applicants for permits.

5 (a)(1) Any person desiring to engage in the liquefied petroleum gas  
6 business in this state must file a formal application and supporting papers,  
7 together with a filing fee of fifty dollars (\$50.00), with the ~~board~~ director  
8 ~~at least thirty (30) days prior to the date of the regular meeting at which~~  
9 ~~the application is to be considered~~ approval of the application by the  
10 director. The board shall review the director's decision on the approval of  
11 permit applications at its next regularly scheduled meeting. Should the  
12 applicant be a corporation or partnership, copies of the article of  
13 incorporation or partnership agreement, if any, shall accompany the  
14 application together with a certificate from the Department of Finance and  
15 Administration, Revenue Division, evidencing that all taxes due have been paid  
16 or otherwise negating state tax liability. Application forms will be  
17 furnished by the ~~board~~ director at any time upon request. In determining  
18 whether to grant permits or certificates, the ~~board~~ director shall be given a  
19 reasonable time in which to investigate the applicant. If the permit or  
20 certificate is denied, the applicant shall be notified by registered mail.

21 (2)(A)(i) The director shall have the power and duty to receive,  
22 review, and approve applications for all classes of permits, after  
23 applications and supporting papers have been filed with the director for at  
24 least thirty (30) days. The director may refuse to approve applications for  
25 permits for safety reasons.

26 (ii) The director may issue all classes of permits once all  
27 conditions for those permits have been met as set out in §§ 15-75-307 through  
28 15-75-317 and it is approved by the board.

29 (B) The board at its regularly scheduled meetings may review the  
30 director's decisions on the approval of applications for permits. After  
31 conditions for the permits are met, the board shall review and approve any  
32 director's decision regarding the issuance of permits prior to the issuing of  
33 the permits. The board may refuse to issue permits for safety reasons.

34 (3) Any applicant aggrieved by a denial of the director or any  
35 person or group of persons who are aggrieved by safety concerns because of the  
36 issuance of the permit by the director after the board's approval may, within

1 thirty (30) days thereof, appeal the decision to the board by filing a notice  
2 of appeal with the board. The notice of appeal of the board's or a director's  
3 decision shall be in a written form provided by the board. The notice of  
4 appeal shall suspend the action of the director *in denying an application or*  
5 *in issuing or denying a permit until the next regular meeting of the board or*  
6 *until a special hearing by the board can be held.*

7 (4) A meeting or hearing shall be held within at least thirty  
8 (30) days after the date of the filing of the notice of appeal unless the  
9 person appealing shall consent to a later hearing.

10 (5) Within five (5) days after the hearing is concluded, the  
11 board shall render its written decision on the appeal.

12 (6) The board is authorized on its own motion to review any action  
13 of the director *in denying an application or in issuing or denying to issue a*  
14 *permit and, upon review, to set aside any action of the director in any of*  
15 *these respects insofar as it pertains to safety issues.*

16 (b)(1) Applicants for class one permits as defined in § 15-75-307 shall  
17 be present at the board meeting at which the review of the director's action  
18 on the application is to be considered.

19 (2) Presence of applicants for all other permits may be required  
20 at the discretion of the board at meetings in which the review of the  
21 director's action on the applications are to be considered.

22 (c) Before any application may be considered by the director and  
23 reviewed by the board, the applicant must have on file in the office of the  
24 director a certificate of intended insurance evidencing the kinds and amounts  
25 as required by this act for the class of permit requested. After approval of  
26 the application and before the permit may be issued, a certificate of required  
27 insurance must be furnished bearing the clause, "The insurance company will  
28 notify the Director, Liquefied Petroleum Gas Board, thirty (30) days prior to  
29 cancellation of the insurance referred to herein." Binders by insurance agents  
30 are not acceptable for the purpose of this act.

31 (d) All applicants must agree to provide adequate equipment and  
32 products which are satisfactory to the board.

33 (e) All persons in charge of operations, and servicemen, installation  
34 men, and truck drivers, must have a certificate of competency from the board.  
35 Each certificate of competency shall be renewed annually.

36 (f)(1) Applicants must have satisfactory experience in the liquefied

1 petroleum gas business or have employed a recognized operator of the business  
2 with experience and competency. In order that the director or the board may be  
3 assured as to competency insofar as safety is concerned, applicants for  
4 permits to engage in the liquefied petroleum gas business generally shall  
5 qualify for new certificates of competency. One (1) or more employees who are  
6 to be engaged in the delivery and transportation of liquefied petroleum gas,  
7 and one (1) or more separate employees who are to be engaged in the  
8 installation of liquefied petroleum gas containers and systems, as well as a  
9 general safety supervisor, shall have a general knowledge of the  
10 characteristics of liquefied petroleum gases, as well as of its proper  
11 handling and utilization, along with a thorough knowledge and understanding of  
12 the National Fire Protection Association Pamphlet No. 58 and the State  
13 Liquefied Petroleum Gas Code, covering the storage and handling of liquefied  
14 petroleum gases, as established by a current written or oral examination  
15 prepared and conducted by ~~an examination committee selected~~ the director with  
16 the approval of by the board. ~~The examination committee shall meet not more~~  
17 ~~than thirty (30) days prior to a regular board meeting for the purpose of~~  
18 ~~conducting the required examinations.~~

19 (2) Applicants must agree to furnish whatever information the  
20 director or the board may require as to their financial condition, character,  
21 and ability to engage in the liquefied petroleum gas business and must also  
22 furnish whatever references the director or the board may require. In  
23 determining whether to grant a class one permit, the director with the  
24 approval of the board shall take into consideration the ~~convenience and~~  
25 ~~necessity of the public~~ competency of the applicant insofar as safety is  
26 concerned and whether the applicant can safely serve the service area for  
27 which they have made application; otherwise the application, with all  
28 requirements met, shall be presumed granted.

29 (g)(1) In order that the public or user of liquefied petroleum gases  
30 may be assured of competent and efficient service to any container, system, or  
31 appurtenance, each dealer who has been issued a current permit, or any  
32 applicant therefor, in addition to competent gas delivery and transportation  
33 personnel, shall provide separate competent personnel for the installation and  
34 servicing of containers, systems, and appurtenances.

35 (2) In determining whether or not to grant a permit, the director  
36 and the board shall determine whether or not an applicant can provide safe and

1 efficient service to the public or the users in the area in which liquefied  
2 petroleum gas operations are to be conducted.

3 (h) In addition to the foregoing requirements, applicants must also  
4 meet the additional requirements listed under the specific class of permit  
5 desired.

6 (i) All foreign corporations doing business in this state in any phase  
7 of the liquefied petroleum gas business must furnish evidence of their  
8 qualifications to do business in the state as a foreign corporation.

9 ~~(j) If an application for a permit to engage in the liquefied petroleum~~  
10 ~~gas business has been denied, the applicant may reapply, but the new~~  
11 ~~application shall not be considered for a period of ninety (90) days after the~~  
12 ~~aforesaid denial.~~

13 ~~(k)(j)~~ In addition to the foregoing, the board shall have the power to  
14 make reasonable application requirements by rules and regulations and shall  
15 adopt rules and regulations as it shall deem necessary to govern the procedure  
16 in any hearing to review the issuance or denial of permits.

17 ~~(l)(k)~~(1) Applicants for a class one permit must attend a forty-hour  
18 basic course in liquefied petroleum gas, as prescribed by the board, prior to  
19 the board meeting at which the review of the final action on their application  
20 may be heard.

21 (2) All owners, managers or officials, and employees connected to  
22 or listed on the class one application must attend the basic training course  
23 prior to the board meeting at which the review of the final action on their  
24 application may be heard."

25  
26 SECTION 7. Arkansas Code § 15-75-306 is amended to read as follows:

27 "15-75-306. Issuance of permits - Classification.

28 (a) After approval of the application by the director and review by the  
29 board as provided in § 15-75-305, ~~the board~~ director may issue the classes of  
30 permits set out in §§ 15-75-307 - 15-75-317 on the conditions indicated in  
31 those sections.

32 ~~(1)(b)~~ All class one (1) permit application approvals must have all  
33 prerequisites met and permit issued within six (6) months of ~~board~~ approval.  
34 If, not issued within six (6) months of approval, application will be returned  
35 to applicant and a new application must be submitted to the ~~board~~ director  
36 thirty (30) days prior to the date of the regular meeting at which the review

1 of the director's action on the application is to be considered."  
2

3 SECTION 8. Arkansas Code § 15-75-307(a), regarding Class one permits  
4 for liquefied petroleum gas, is amended to read as follows:

5 "(a) The holder of a class one permit:

6 (1) May engage in any phase of the liquefied petroleum gas  
7 business;

8 (2) Must pay an annual permit fee in the sum of ~~four hundred~~  
9 ~~dollars (\$400)~~ three hundred dollars (\$300)."

10  
11 SECTION 9. Arkansas Code § 15-75-317 is amended to read as follows:

12 "*15-75-317. Approval prerequisite to supplying or acquiring certain*  
13 *equipment and products.*

14 (a) *No applicant for a permit shall purchase, lease, rent, or furnish*  
15 *any equipment or product which is subject to inspection or regulation by the*  
16 *board until application has been approved and authority to purchase has been*  
17 *granted by the ~~board~~ director.*

18 (b) *No permit holder shall sell, lease, rent, or furnish any equipment*  
19 *or product which is subject to inspection or regulation by the board to any*  
20 *applicant until application has been approved and authority to purchase has*  
21 *been granted by the ~~board~~ director."*

22  
23 SECTION 10. Arkansas Code § 15-75-320 is amended to read as follows:

24 "*15-75-320. Sales restrictions.*

25 (a) No dealer shall sell or offer for sale liquefied petroleum gas or  
26 conduct liquefied petroleum gas operations of any type in any area of this  
27 state in which competent personnel are not readily available for proper and  
28 efficient service to the users' containers, systems, or appurtenances.

29 (b) (1) Each Beginning on July 1, 1999, the board shall review the  
30 service areas for each dealer who has been issued a current permit shall  
31 immediately appear before the board for the purpose of reviewing and  
32 submitting prima facie evidence establishing the area in which domestic  
33 liquefied petroleum gas operations were being conducted in general as of  
34 January 1, 1965 July 1, 1999.

35 (2) On July 1, 1999, each dealer who has a current permit which  
36 allowed service in a service area which runs into a particular county will be



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

14 (3) Beginning on July 1, 1999 and thereafter, each person applying for a  
15 permit to sell or offer for sale liquefied petroleum gas or conduct liquefied  
16 petroleum gas operations shall apply to provide service to the entire area of  
17 a whole county. Each person applying for service in a county shall have  
18 adequate storage facilities, as determined by the director and the board, for  
19 the conduct liquefied petroleum gas operations within the county or counties  
20 in which they are to serve. In deciding issues of the adequacy of service and  
21 facilities, the safety of the general public shall be the primary concern of  
22 the director and the board.

23 (c) Each existing or new permit issued by the board shall designate  
24 accurately the ~~area~~ county or counties in which the holder may conduct  
25 liquefied petroleum gas operations.

26 (d) No dealer shall sell or offer for sale liquefied petroleum gas or  
27 conduct liquefied petroleum gas operations of any type in any ~~area or location~~  
28 county or counties not shown on and authorized by a current permit.

29 (e) Any dealer desiring to enlarge or expand a liquefied petroleum gas  
30 ~~area of operation~~ service beyond that the designated county or counties and  
31 authorized by a current permit shall first obtain approval from the director  
32 with review by the board for a new permit at its next regularly scheduled  
33 meeting.

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

1 (g) After July 1, 1999, each county of operation for which application  
2 is made shall constitute an individual class one (1) permit and requires an  
3 annual permit fee of three hundred dollars (\$300)."  
4

5 SECTION 11. All provisions of this act of a general and permanent  
6 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
7 Code Revision Commission shall incorporate the same in the Code.  
8

9 SECTION 12. If any provision of this act or the application thereof to  
10 any person or circumstance is held invalid, such invalidity shall not affect  
11 other provisions or applications of the act which can be given effect without  
12 the invalid provision or application, and to this end the provisions of this  
13 act are declared to be severable.  
14

15 SECTION 13. All laws and parts of laws in conflict with this act are  
16 hereby repealed.  
17

18 SECTION 14. EMERGENCY CLAUSE. It is hereby found and determined by the  
19 Eighty-second General Assembly that current areas of service for persons  
20 engaged in the liquefied petroleum gas business are inadequate and need to be  
21 expanded, that procedures for making applications for permits and for issuing  
22 permits are too lengthy and need to be revised in order to provide better  
23 service to the citizens of Arkansas, and that it is necessary for this law to  
24 take effect with the beginning on the state's new fiscal year. Therefore, an  
25 emergency is declared to exist and this act being immediately necessary for  
26 the preservation of the public peace, health and safety shall become effective  
27 on July 1, 1999.  
28

29 /s/ Fitch  
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