

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 998

INTRODUCER: Fiscal Policy Committee and Senator Collins

SUBJECT: Sale of Liquefied Petroleum Gas

DATE: February 8, 2024 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McKay</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	Favorable
3.	<u>Baird</u>	<u>Yeatman</u>	<u>FP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 998 makes a number of changes with regard to the regulation of liquefied petroleum (LP) gas by the Department of Agriculture and Consumer Services (DACS):

- Provides that a category I liquefied petroleum gas dealer license must include one licensed location, and may include up to two remote bulk storage, and that remote bulk storage locations must be located within 75 miles of the licensed location and included in the category I liquefied petroleum gas dealer license application.
- Specifies that a competency exam must be completed within 90 days after the application has been accepted by the DACS.
- Requires that category I or category V qualifiers must have one year of verifiable LP gas experience.
- Provides that a person may not act as a master qualifier for more than one licensee.
- Empowers the DACS to revoke the license of a qualifier or master qualifier who demonstrates a lack of trustworthiness
- Gives the DACS the authority to condemn unsafe equipment and issue an immediate final order requiring the immediate removal of LP gas that is deemed a threat to public health.
- Adjusts language relating to aggregate capacity of containers.
- Requires LP gas technicians to provide their name and qualifier number on all work orders.
- Prohibits anyone other than those authorized from adding or removing gas from a customer's tank, and gives the DACS the authority to adopt rules to provide exceptions for emergencies.
- Revises and clarifies the minimum storage requirement to account for aggregate storage.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

The Present Situation for each section in the bill is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

The Bureau of Compliance within the Department of Agriculture and Consumer Services (DACS) is the primary agency charged with regulating the liquefied petroleum (LP) gas industry, including licensing, inspection, training, and examination requirements, pursuant to Ch. 527, F.S.¹ LP gas is defined in statute as any material composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane; propylene; butanes (normal butane or isobutane); and butylenes.²

Definitions and Licensure

Section 527.01, F.S., provides definitions for use in ch. 527, F.S., concerning the sale of liquefied petroleum gas.

Pursuant to s. 527.02, F.S., it is unlawful for any person in Florida to engage in any of the following activities without first obtaining a license from the DACS to do so:

- Category I liquefied petroleum gas dealer - any person selling or offering to sell by delivery or at a stationary location any liquefied petroleum gas to the consumer for industrial, commercial, or domestic use; any person leasing or offering to lease, or exchanging or offering to exchange, any apparatus, appliances, and equipment for the use of liquefied petroleum gas; any person designing, installing, servicing, altering, or modifying apparatus, piping, tubing, appliances, and equipment for the use of liquefied petroleum or natural gas; any person installing carburetion equipment; or any person requalifying cylinders.³
- Category II liquefied petroleum gas dispenser - any person engaging in the business of operating a liquefied petroleum gas dispensing unit for the purpose of serving liquid products to the consumer for industrial, commercial, or domestic use, and selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum gas, including maintaining a cylinder storage rack at the licensed business location for the purpose of storing cylinders filled by the licensed business for sale or use at a later date.⁴
- Category III liquefied petroleum gas cylinder exchange operator - any person operating a storage facility used for the purpose of storing filled propane cylinders of not more than 43.5 pounds propane capacity or 104 pounds water capacity, while awaiting sale to the consumer,

¹ See The Florida Department of Agriculture and Consumer Services, *Liquefied Petroleum Gas Licenses*, available at <https://www.fdacs.gov/Business-Services/LP-Gas-Licenses> (last visited Jan. 22, 2024).

² Section 527.01(1), F.S.

³ Section 527.01(6), F.S.

⁴ Section 527.01(7), F.S.

or a facility used for the storage of empty or filled containers which have been offered for exchange.⁵

- Category IV dealer in appliances and equipment - any person selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum gas.⁶
- Category V LP gas installer - any person who is engaged in the liquefied petroleum gas business and whose services include the design, installation, servicing, altering, or modifying of apparatus, piping, tubing, tanks, and equipment for the use of liquefied petroleum or natural gas and selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum or natural gas.⁷
- Category VI miscellaneous operator - any person who is engaged in operation as a manufacturer of LP gas appliances and equipment; a fabricator, repairer, and tester of vehicles and cargo tanks; a requalifier of LP gas cylinders; or a pipeline system operator.⁸

The sale of liquefied petroleum gas cylinders with a volume of 10 pounds water capacity or 4.2 pounds liquefied petroleum gas capacity or less is exempt. It is a felony of the third degree⁹ to intentionally or willfully engage in any of these activities without first obtaining appropriate licensure from the DACS. Each business location of a person having multiple locations must be separately licensed.¹⁰

Section 1 amends s. 527.01, F.S., to provide definitions for the following terms:

- “Licensed location” means the premises on which category I, category II, category III, category IV, category V, or category VI liquefied petroleum gas operations are performed, excluding remote bulk storage.
- “Remote bulk storage” means the location of liquefied petroleum gas stored for the sole purpose of filling delivery vehicles used in delivery to an end user.

Section 2 amends s. 527.02, F.S., to provide that:

- each remote bulk storage location of a category I LP gas dealer must comply with the category I liquefied petroleum gas dealer licensing requirements, and
- a category I LP gas dealer license must include one licensed location, and may include up to two remote bulk storage locations.. Remote bulk storage locations must be located within 75 miles of the licensed location and included in the category I liquefied petroleum gas dealer license application.

Qualifiers and Master Qualifiers

A person applying for a license to engage in category I, category II, or category V activities must prove competency by passing a written examination administered by the DACS or its agent with

⁵ Section 527.01(8), F.S.

⁶ Section 527.01(9), F.S.

⁷ Section 527.01(10), F.S.

⁸ Section 527.01(11), F.S.

⁹ See ss. 775.082, 775.083, and 775.084, F.S., which provide that a “felony of the third degree” is punishable by a term of imprisonment not to exceed 5 years, and a fine not to exceed \$5,000.

¹⁰ Section 527.02(1), F.S.

a grade of 70 percent or above in each area tested, and each applicant for examination must submit a \$20 nonrefundable fee.¹¹

Application for examination for competency may be made by an individual or by an owner, a partner, or any person employed by the license applicant. Upon successful completion of the competency examination, the DACS must register the examinee.¹²

Qualifier registration automatically expires if the individual terminates active employment in the area of examination for a period exceeding 24 months, or fails to provide documentation of continuing education. If the qualifier registration has expired, the individual must apply for and successfully complete an examination by the DACS in order to reestablish qualifier status.¹³ Every business organization in license category I, category II, or category V must employ at all times a full-time qualifier who has successfully completed an examination in the corresponding category of the license held by the business organization. A person may not act as a qualifier for more than one licensed location.¹⁴ A qualifier for a business must actually function in a supervisory capacity of other company employees performing licensed activities. A separate qualifier is required for every 10 such employees.¹⁵

In addition to all other licensing requirements, each category I and category V licensee must, at the time of application for licensure, identify to the DACS one master qualifier who is a full-time employee at the licensed location. This person must be a manager, owner, or otherwise primarily responsible for overseeing the operations of the licensed location and must provide documentation to the DACS. The master qualifier requirement is in addition to the requirements of s. 527.0201(1), F.S.¹⁶

In order to apply for certification as a master qualifier, each applicant must have a minimum of 3 years of verifiable LP gas experience or hold a professional certification by an LP gas manufacturer, each applicant must be employed by a licensed category I or category V licensee or an applicant for such license, and each applicant must pass a master qualifier competency examination administered by the DACS or its agent. Master qualifier examinations must be based on Florida's laws, rules, and adopted codes governing liquefied petroleum gas safety, general industry safety standards, and administrative procedures. The applicant must successfully pass the examination with a grade of 70 percent or above. Each applicant for master qualifier registration must submit to the DACS a nonrefundable \$30 examination fee before the examination.¹⁷

Upon successful completion of the master qualifier examination, the DACS must issue the examinee a master qualifier registration. A master qualifier may transfer from one licenseholder

¹¹ Section 527.0201(1), F.S.

¹² Section 527.0201(2), F.S.

¹³ Section 527.0201(2)(a), F.S.

¹⁴ Section 527.0201(2)(b), F.S.

¹⁵ Section 527.0201(4), F.S.

¹⁶ Section 527.0201(5), F.S.

¹⁷ Section 527.0201(5)(a), F.S.

to another upon becoming employed by the company and providing a written request to the DACS.¹⁸

A master qualifier registration expires three years after the date of issuance and may be renewed by submission of documentation of completion of at least 16 hours of approved continuing education courses during the three-year period, proof of employment, and a \$30 certificate renewal fee. The DACS must define approved courses of continuing education.¹⁹

Section 3 amends s. 527.0201(2), F.S., to provide that the examination for competency must be completed within 90 days after the application has been accepted by the DACS.

The bill also provides that in order to apply for certification as a category I or category V qualifier, each applicant must have a minimum of one year of verifiable LP gas experience. A person may not act as a qualifier for more than one location where LP gas activities related to a category I LP gas dealer, a category II LP gas dispenser, or a category V LP gas installer are performed.

A qualifier for a business must actually function in a position with authority to monitor and enforce safety provisions under ch. 527, F.S., at the licensed location. A separate qualifier is required for every 10 employees performing LP gas activities.

The bill requires that each category I and category V licensee must identify to the DACS one master qualifier who is a full-time employee *at the licensed location*. A person may not act as a master qualifier for more than one licensee.

The bill empowers the DACS to deny, refuse to renew, suspend, or revoke the license of a qualifier or master qualifier who demonstrates a lack of trustworthiness to engage in activities requiring a qualifier identification card as defined by DACS rule.

Powers and Duties of the DACS

The DACS is empowered to enforce all statutory provisions and adopted rules related to:

- The safe handling, installing, storing, selling, utilizing, transporting, servicing, testing, repairing, or maintaining of liquefied petroleum gas, liquefied petroleum gas equipment, and liquefied petroleum gas systems.²⁰
- Reasonable standards of competency required of persons to safely engage in the business of handling, installing, storing, selling, utilizing, transporting, servicing, testing, repairing, or maintaining liquefied petroleum gas, liquefied petroleum gas equipment, or liquefied petroleum gas systems, including, but not limited to, the training, licensure, testing, and qualifying of such persons.²¹

The DACS has the powers and authority expressly conferred on it by, or reasonably implied from, the provisions of ch. 527, F.S., and may conduct such investigations as it may deem proper

¹⁸ Section 527.0201(5)(b), F.S.

¹⁹ Section 527.0201(5)(c), F.S.

²⁰ Section 527.055(1)(a), F.S.

²¹ Section 527.055(1)(b), F.S.

to determine whether any person has violated any provision of ch. 527, F.S., or adopted rule, or to secure information useful in the lawful administration of any law or rule promulgated pursuant to ch. 527, F.S.²² The DACS may collect, propose, publish, and disseminate information relating to the subject matter of any duties imposed upon it by law.²³

Section 4 amends s. 527.055, F.S., to provide that the DACS has the powers and authority to condemn unsafe equipment and issue an immediate final order requiring the immediate removal of LP gas from storage that does not comply with ch. 527, F.S., and is deemed a threat to the public health, safety, and welfare.

Bulk Storage Locations

The provisions of ch. 527, F.S., apply to LP gas bulk storage locations when:

- A single container in the bulk storage location has a capacity of 2,000 gallons or more;
- The aggregate container capacity of the bulk storage location is 4,000 gallons or more; or
- A container or containers are installed for the purpose of serving the public the liquid product.²⁴

No newly installed container may be placed in operation until it has been inspected and approved by the DACS.²⁵

Section 5 amends s. 527.0605(1)(b), F.S., to provide that the provisions of ch. 527, F.S., apply to liquefied petroleum gas bulk storage locations when the aggregate container capacity of the bulk storage location is *more than* 4,000 gallons.

Responsibilities of Persons Engaged in Servicing Liquefied Petroleum Gas Equipment

All persons engaged in the business of servicing, testing, repairing, maintaining, or installing LP gas equipment and systems must initially present proof of licensure to consumers, owners, or end users prior to working on said equipment or systems. Additionally, such persons must subsequently present proof of licensure upon the request of consumers, owners, end users, or persons who have authorized such work.²⁶

Any consumer, owner, end user, or person who alters or modifies his or her LP gas equipment or system in any way must, for informational purposes, notify the licensed dealer who next fills or otherwise services his or her LP gas system that such work has been performed. The DACS may promulgate rules prescribing the method of notification. Such notification must be made within a reasonable time prior to the date the liquefied petroleum gas equipment or system is next filled or otherwise serviced in order that the equipment or system may be serviced in a safe manner.²⁷

A category I liquefied petroleum gas dealer may not render a consumer's LP gas equipment or system inoperable or discontinue service without providing written or electronic notification to

²² See ss. 527.055(2), and 527.055(3), F.S.

²³ Section 527.055(4), F.S.

²⁴ Section 527.0605, F.S.

²⁵ *Id.*

²⁶ Section 527.067(1), F.S.

²⁷ Section 527.067(2), F.S.

the consumer at least 5 business days before rendering the LP gas equipment or system inoperable or discontinuing service. This notification does not apply in the event of a hazardous condition known to the category I liquefied petroleum gas dealer.²⁸

Section 6 amends s. 527.067, F.S., to add a provision that all persons engaged in the business of servicing, testing, repairing, maintaining, or installing liquefied petroleum gas equipment and systems must include on all work orders, estimates, invoices, and similar documentation the name and qualifier number of the person performing the work.

Restriction on Use of Containers

A person, other than the owner and those authorized by the owner, may not sell, fill, refill, remove gas from, deliver, permit to be delivered, or use in any manner any LP gas container or receptacle for any gas or compound, or for any other purpose.²⁹

Section 7 amends s. 527.07, F.S., to add a provision that a person, other than those authorized by the end user, may not add gas to or remove gas from any container or receptacle that contains LP gas purchased or contracted for transfer by, and in the lawful possession of, the end user. The DACS must adopt rules to provide exceptions for emergencies.

Minimum Storage

Every person who engages in the distribution of LP gas for resale to domestic, commercial, or industrial consumers as a prerequisite to obtaining an LP gas license must install, own, or lease a bulk storage filling plant of not less than 18,000 gallons (water capacity) within Florida and must be located within a 75-mile radius of the licensed company's business location. This bulk storage filling plant must have loading and unloading provisions solely for the licenseholder and be operated and maintained in compliance with ch. 527, F.S., for the duration of the license.³⁰

A dealer in LP gas licensed as of August 31, 2000, who has entered or who enters into a written agreement with a wholesaler that the wholesaler will provide liquefied petroleum gas to the dealer for a period of 12 continuous months is exempt from the requirements in s. 527.11(1), F.S., if the wholesaler has at least 18,000 gallons (water capacity) of bulk storage within Florida permanently connected for storage, which is used as such for each dealer to whom gas is sold, and if the wholesaler has loading and unloading provisions. Such dealer must provide certification of this agreement on a form provided by the DACS to the DACS before her or his license may be issued. The form must be signed by both the wholesaler or his or her agent and the dealer or his or her agent and must be submitted annually with the license renewal application. A dealer who does not provide written proof of minimum storage may have her or his license denied, suspended, or revoked. A wholesaler may not enter into written agreements that allocate an amount of storage that exceeds the wholesaler's total storage capacity minus 18,000 gallons (water capacity).³¹

²⁸ Section 527.067(3), F.S.

²⁹ Section 527.07, F.S.

³⁰ Section 527.11(1), F.S.

³¹ Section 527.11(2), F.S.

Section 8 amends s. 527.11(1), F.S., to provide that the necessary bulk storage requirement is *aggregate capacity* of not less than 18,000 gallons, and deletes the requirement that the bulk storage be located within 75 miles of the licensed company's business location.

The bill deletes an outdated provision in s. 527.11(2), F.S., and provides that a wholesaler *or a dealer* may not enter into written agreements that allocate an amount that exceeds the total storage capacity minus 18,000 gallons.

Effective Date

Section 9 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None Identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 527.01, 527.02, 527.0201, 527.055, 527.0605, 527.067, 527.07, and 527.11 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Fiscal Policy on February 7, 2024:

- Clarifies that the definition of “licensed location” excludes remote bulk storage.
- Clarifies that each remote bulk storage location of a category I liquefied petroleum gas dealer must comply with the category I liquefied petroleum gas dealer licensing requirements.
- Changes the category I liquefied petroleum gas dealer license requirements to require that they must include one licensed location and may include up to two remote bulk storage locations.
- Provides that in order to apply for certification as a category I or category V qualifier, each applicant must have a minimum of 1 year of verifiable LP gas experience.
- Clarifies that a person may not act as a qualifier for more than one location where LP gas activities related to category I LP gas dealers, category II LP gas dispensers, or category V LP gas installers.
- Clarifies that a qualifier is required for every 10 employees performing liquefied petroleum gas activities.
- Empowers the DACS to revoke the license of a qualifier or master qualifier who demonstrates a lack of trustworthiness.
- Clarifies that the DACS can issue an immediate final order requiring the immediate removal of non-compliant LP gas storage that is deemed a threat to the public health, safety, and welfare.
- Removes a requirement that a person performing certain LP gas work must provide a license number; and gives the DACS rulemaking authority.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
