An Act

ENROLLED SENATE BILL NO. 1520

By: Quinn of the Senate

and

Jordan of the House

An Act relating to liquefied petroleum gas; amending 52 O.S. 2011, Sections 420.2, 420.3, 420.4, as amended by Section 1, Chapter 95, O.S.L. 2015 (52 O.S. Supp. 2017, Section 420.4), 420.6 and 420.9, which relate to State Liquefied Petroleum Gas Administrator, Oklahoma Liquefied Petroleum Gas Board, registration permits and fees, suspension of registration permits and specifications for commercial propane, butane and mixtures; modifying job requirements for liquefied petroleum gas Administrator; modifying duties of Administrator; modifying certain permit; increasing amount of administrative penalty; modifying application of Oklahoma Liquefied Petroleum Gas Regulation Act to transport trucks; removing requirement that bulk deliveries of liquefied petroleum gas be metered by certain rules; updating statutory language; and declaring an emergency.

SUBJECT: Liquidfied petroleum gas

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 52 O.S. 2011, Section 420.2, is amended to read as follows:

Section 420.2 A. There is hereby created a State Liquefied Petroleum Gas Administrator, to be appointed by the Governor from a list of nominees submitted by the Oklahoma Liquefied Petroleum Gas Board, hereinafter created. The appointment shall be subject to confirmation by the Senate. The Administrator shall:

1. Receive a salary to be established by the Oklahoma Liquefied Petroleum Gas Board;

2. Act in no other official or quasi-official capacity except as herein provided; and

3. Serve at the pleasure of the Governor.

B. The Administrator, subject to approval of the Board, shall appoint and fix the duties and compensation of employees necessary to perform the duties imposed upon the Oklahoma Liquefied Petroleum Gas Board by law.

C. 1. Persons appointed to the positions of Administrator, chief deputy administrator, deputy administrator or safety code enforcement officer shall:

- a. be citizens of the United States,
- b. be legal residents of this state,
- c. be physically, mentally and morally capable of performing the duties imposed upon them pursuant to the Oklahoma Liquefied Petroleum Gas Regulation Act,
- d. not have been convicted of a felony in this state or any other state as established by a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes, and
- e. after the date of their appointment, not be engaged in any business in this state related to the production, manufacture, distribution, sale, installation or transportation of any of the products or equipment covered by the Oklahoma Liquefied Petroleum Gas Regulation Act.

2. Each appointee shall, by education, training and experience, be qualified and competent to perform the duties imposed upon them pursuant to the Oklahoma Liquefied Petroleum Gas Regulation Act, which for:

- a. the Administrator shall include at least two (2) years' experience in positions of responsibility in or connected with the liquefied petroleum gas industry managerial responsibility or two (2) years' experience as a liquefied petroleum gas safety code enforcement officer,
- b. the chief deputy administrator and deputy administrators shall include at least one and one-half (1 1/2) years of such experience, and
- c. the safety code enforcement officers shall include at least two (2) years' experience in actual physical installation or inspection of liquefied petroleum gas systems, containers, apparatus or appliances, or installations thereof, and/or the ability to enforce the rules and regulations.

3. Before entering upon their duties, appointees shall take the constitutional oath of office.

D. In the event of a vacancy in the office of Administrator, or in the event of the absence or disability of the Administrator, the chief deputy administrator is hereby empowered and authorized to perform the duties of the Administrator during the time of such vacancy, absence or disability.

SECTION 2. AMENDATORY 52 O.S. 2011, Section 420.3, is amended to read as follows:

Section 420.3 A. There is hereby re-created the Oklahoma Liquefied Petroleum Gas Board, hereinafter sometimes referred to as "LP-Gas Board" or "Board". The Board shall be composed of seven (7) members, one each from the southeastern, northeastern, northwestern and southwestern quarters of the state, one from central Oklahoma, and two from the state at large. Each such appointment shall be made by the Governor, from a list of three or more nominees who have certified in writing their willingness to serve, to be submitted to him by the persons, firms or corporations required to be registered pursuant to the provisions of Sections 420.1 through 420.15 of this title, or by their representatives, and shall be subject to confirmation by the Senate.

Β. No person shall be appointed as a member of the Board unless at the time of his or her appointment he or she has been a legal resident of the State of Oklahoma for at least five (5) years next preceding the date of his or her appointment and, except for the two members at large, shall have actively engaged in the retail distribution of liquefied petroleum gas in Oklahoma for a period of one (1) year, or more. One of the members at large shall be engaged in and representative of the container and appliance phases of the LPG business in Oklahoma, and the other shall have a general familiarity with the regulatory problems of the industry and the consuming public. Provided, however, that the appointment of such public member shall not be subject to the aforementioned list which is required to be submitted to the Governor. Members shall be eligible for reappointment for successive terms, and shall be removable for cause by the Governor. A member shall automatically be disqualified to hold such office in event he or she ceases to be a legal resident of the State of Oklahoma or ceases to be actively engaged in the liquefied petroleum gas LPG business in Oklahoma.

C. Re-creation shall not alter existing membership or terms of Members shall serve until their successors in office are office. duly appointed and qualified. Initial appointments of those members of the Board from the designated geographical areas of the state shall be for terms ranging from one (1) to five (5) years, the Governor to designate same, and the initial terms of office of the members at large on said the Board shall be for one (1) and two (2) years, respectively, as designated by the Governor. Thereafter, the terms of all members shall be for four (4) years. In the event of the death, resignation, disqualification or incapacity of one or more members of said the Board, a recess appointment for the unexpired term of each such member may be made by the Governor as hereinabove provided. Members of the Board shall be entitled to be reimbursed for necessary travel expenses as provided in the State Travel Reimbursement Act.

D. The Board shall organize by electing one of its members as chairman and one member as vice-chairman. The Board shall hold regular meetings. The date, time and place of any regular meeting shall be as designated by vote of the majority of the membership. Four members of said the Board shall constitute a quorum for all purposes. The chairman or vice-chairman may, upon approval of a majority of the members present and voting at any meeting, designate the time, place and date of any scheduled special meeting, and the chairman or vice-chairman shall have the power to call an unscheduled special meeting of the Board upon not less than five (5) days' notice in writing to each member thereof.

The standards for the storage and handling of liquefied Ε. petroleum gases adopted by the National Fire Protection Association and published in Pamphlet No. 58 including current and subsequent editions and any subsequent changes and/or additions to the pamphlet, and the standards for the installation of gas appliances and gas piping adopted by the National Fire Protection Association and published in Pamphlet No. 54 including the current and any subsequent editions and any subsequent changes and/or additions to the pamphlet shall be the accepted standards for this state. The said Board is hereby empowered and authorized, and it shall be its duty to prescribe, adopt and promulgate, in the manner set forth in Section 420.1 et seq. of this title, rules relating to safety in the storage, distribution, dispensing, transporting and utilization of LPG in this state and in the manufacture, fabrication, assembly, sale, installation or use in this state of LPG systems, containers, apparatus or appliances, and reasonable rules governing the issuance of such permits and operations thereunder, and not inconsistent with this act the Oklahoma Liquefied Petroleum Gas Regulation Act, as it shall deem just and reasonable, and to revoke, amend or supersede such supplementary rules.

F. The Administrator shall administer and enforce all rules formulated and adopted by the Board and administer and enforce the safety rules prescribed, adopted or promulgated by said the Board under and by virtue of the provisions of this act the Oklahoma Liquefied Petroleum Gas Regulation Act, and incur all necessary expenditures in effectuating the purposes of this subsection. The Administrator shall serve as secretary to said the Board, and shall be subject to confirmation by the Senate. G. Before any rules are revised, amended, adopted or promulgated hereunder, the Administrator, acting on behalf of said the Board, shall give ten (10) days' notice to all Class I and Class II permit holders under the act Oklahoma Liquefied Petroleum Gas <u>Regulation Act</u>, by mailing to the permit holders a written notice, signed by the Administrator, on behalf of the Board, containing either a statement of the terms or substance of the intended action, a description of the subjects and issues involved, or an accurate copy of the new, revised or amended rules which the Board proposes to adopt and promulgate, stating the date, time and place of a public hearing at which oral or written objections to such proposals shall be heard and considered. Notice shall also be given as required by the Administrative Procedures Act. Nothing in this subsection shall prevent the furnishing of such other or additional notice as the Board shall direct.

H. At any hearing held under this section, not less than a quorum of said the Board shall be present and shall preside; provided, however, that by unanimous vote and resolution, the Board may authorize the Administrator to preside at any or all such hearings, and in such event no Board member need be present. After any such hearing the Board may, by majority vote, adopt any proposed new, revised or amended rules with such amendments and modifications thereof as the said the Board shall deem just and reasonable, and a certificate reciting such adoption and the effective date thereof shall be signed by the members comprising said the majority of said the Board. The Administrator shall thereafter, within ten (10) days, cause such rules so adopted to be mailed to each Class I and Class II permit holder under this act.

SECTION 3. AMENDATORY 52 O.S. 2011, Section 420.4, as amended by Section 1, Chapter 95, O.S.L. 2015 (52 O.S. Supp. 2017, Section 420.4), is amended to read as follows:

Section 420.4 A. No person, firm_{au} or corporation shall manufacture, fabricate, assemble_{au} or install in this state anysystem, container, apparatus_{<math> au} or appliance used or to be used inthis state in or for the transportation, storage, dispensing_{<math> au} orutilization of LPG, nor shall any transporter, distributor_{<math> au} orretailer of LPG store, dispense or transport over the highways ofthis state any LPG intended for use in this state in any suchsystem, container, apparatus_{<math> au} or appliance, without having first</sub></sub></sub></sub></sub> applied for and obtained a registration permit to do so. A permit shall not be required by any person, firm $_{\overline{r}}$ or corporation engaged in the production or manufacture of LPG, or selling or reselling LPG to transporters, processors, distributors $_{\tau}$ or retailers, nor by any person, firm, or corporation selling or delivering motor vehicles or tractors which are factory equipped with an LPG system, container, apparatus $_{\tau}$ or appliance for the utilization of LPG as motor fuel. The provisions of this section shall not prevent an individual from installing in his or her own single-unit residence any system, container, apparatus, or appliance which uses or will utilize LPG, provided that such individual has secured an inspection of such the installation by the Administrator or someone designated by the Administrator or by a person duly licensed to make such an installation prior to the use of said the system, container, apparatus or appliance. Applications for registration permits shall be in writing, on a form provided by the Board, and shall contain such pertinent information as is required by the Board. Upon approval of each said application and receipt of the certificates of insurance or securities required by the provisions of this section, the Administrator shall issue to the applicant a permit to engage in the phase of the liquefied petroleum gas LPG industry in this state to which such permit applies. No permit other than the Class I Dealer Permit shall be transferable. The Board is authorized to establish a fee for the transfer of a Class I Permit. Nothing in Sections 420.1 through 420.15 of this title shall be construed to regulate the manufacturing, fabrication, assembling, selling, or installing of any system, container, apparatus $_{ au}$ or appliance having a fuel container with a maximum individual water capacity of less than two and one-half $(2 \ 1/2)$ pounds.

B. 1. The Board is authorized to establish an annual permit fee for the issuance of each class of permit listed in subsection C of this section.

2. All such registration permits shall expire annually with no permit extending longer than one (1) calendar year. The expiration dates shall be set by the Board in the rules. The Administrator may issue a semiannual permit to applicants engaging in the business within six (6) months or less of the annual renewal date. A semiannual permit shall expire on the following annual expiration date. The fee for a semiannual permit shall be one-half (1/2) that of the fee of the annual permit. All registration permits required pursuant to the provisions of this section shall be renewed upon payment of the annual fees on or before the expiration of the registration permit, and upon fulfilling all insurance requirements. The Board is authorized to establish necessary penalty provisions required to ensure prompt payment of said the annual fees.

3. The Board is authorized to establish specifications which set forth the scope of authority for each class of permits.

4. The Board is authorized to establish an initial permit fee for the issuance of Class I and Class II permits to any person, firm or corporation for the first time.

C. Persons, firms, and corporations required to be registered pursuant to the provisions of Sections 420.1 through 420.15 of this title, at the time of issuance of each permit, shall pay to the Administrator the initial permit fee, if applicable, and any annual fee that is applicable to the following permit classes:

- 1. Class I Dealer Permit;
- 2. Class II Truck Transporter Permit;
- 3. Class III DOT Cylinder Transporter Permit;
- 4. Class IV Installer Permit;
- 5. Class IV-D Driver/Installer Permit;

6. Class VI - DOT Cylinder and/or LPG Motor Fuel Station
Operator;

7. Class VI-A - LPG Dispensing Permit;

8. Class VII - Cylinder Exchange Program Permit;

9. Class IX - LPG Container Sales Permit;

10. Class IX-A - Manufactured Homes and Recreation Sales Permit; and

11. Class X - Manager's Permit.

D. 1. Each person, firm_{τ} or corporation holding a permit authorizing the use of an LPG bulk delivery truck or trailer shall pay at the time of inspection an annual inspection fee in an amount as established by the Board for each said delivery truck or trailer belonging to said the person, firm_{τ} or corporation. Each person, firm_{τ} or corporation who does not hold a permit issued by the Board authorizing the use of an LPG bulk delivery truck or trailer in the state shall pay an annual inspection fee in an amount as established by the Board for each such truck or trailer belonging to said person, firm_{τ} or corporation being used to dispense or transport LPG in the state.

2. The inspection fee shall increase to an amount established by the Board per vehicle if said the inspection is not completed within sixty (60) days of the expiration date, or at a later date at the discretion of the Administrator.

E. Any LPG bulk delivery truck or trailer failing to be approved at its annual inspection shall be assessed a fee in an amount as established by the Board at the time that it is reinspected.

F. The fees provided for in this section shall be applicable to residents and nonresidents of Oklahoma.

G. The Board is authorized to approve or disapprove applications for registration permits to distributors and retailers of LPG and managers of LPG establishments. The Administrator is authorized to approve or disapprove all other applications for registration permits that may be issued pursuant to the provisions of this section.

1. No application shall be approved by the Administrator unless the Administrator is satisfied that the applicant by written examination has shown a working knowledge of the safety requirements provided by the rules of the Board.

2. No application shall be approved by the Board unless the Board is satisfied by adequate written examination of the applicant, or the individual who is or shall be directly responsible for actively supervising the operations of such applicant which is a partnership, firm, or corporation, that the applicant or such individual has a working knowledge of the safety requirements provided by the rules of the Board. The Board shall cause to be held public hearings on the second Monday in the months of January, April, July $_{\overline{r}}$ and October of each year on all applications for new registration permits required by the provisions of this section, or upon such other occasions as the Board may deem necessary. Notice of each hearing shall be mailed to each such applicant and shall be posted in a conspicuous place in the Office of the Administrator in Oklahoma City, Oklahoma, at least thirty (30) days prior to the date of such the hearing. Said The notice shall include the name, address, permit class, and business location of each applicant whose application is to be considered at the hearing. Such The applicant, or the individual who is or shall be directly responsible for and actively supervising the operations of such the applicant, may be present at such the hearing. If, after the public hearing, an applicant is found by the Board to have a working knowledge of the safety requirements provided by the rules and regulations of the Board, the Board shall cause an order to that effect to be entered upon its records and the application shall be approved. In the event an applicant fails to qualify, said the fact shall be entered upon the Board's records.

3. The Board shall charge a fee, in an amount established by the Board, for testing materials and the expense of holding the examinations provided for in this section. Said The fee shall be paid upon filing an application for any permit.

H. A registration permit shall not be issued to any applicant unless the Administrator has received certificates of insurance or security as required by this section.

I. Except as otherwise provided for in this section, all persons, firms, or corporations engaged in the business of manufacturing, fabricating, assembling, or installing any LPG system, container, apparatus, or appliance in this state, and required to be registered pursuant to the provisions of Sections 420.1 through 420.15 of this title, shall file with the Administrator a certificate indicating liability insurance coverage for the manufacturer and contractor. The Board is authorized to establish coverage amounts for each class of permit, provided coverage shall be for an amount of not less than Twenty-five Thousand Dollars (\$25,000.00) to Fifty Thousand Dollars (\$50,000.00) for bodily injury and limits of not less than Twenty-five Thousand Dollars (\$25,000.00) for property damage, and shall be in full force and effect, covering the plant, equipment₇ and motor vehicles used in such business, and the operations of the business.

J. Except as otherwise provided for in this section, all transporters, distributors, or retailers of LPG in this state, required to be registered pursuant to Sections 420.1 through 420.15 of this title, shall file with the Administrator a certificate indicating that public liability and property damage insurance coverage has been issued. The Board is authorized to establish coverage amounts for each class of permit, provided coverage shall be for an amount of not less than Twenty-five Thousand Dollars (\$25,000.00) to Fifty Thousand Dollars (\$50,000.00) for bodily injury and limits of not less than Twenty-five Thousand Dollars (\$25,000.00) for property damage has been issued, and is in full force and effect, covering the plant, equipment, and motor vehicles used in such business, and the operations of said the business.

K. Insurance pursuant to the provisions of this section shall be maintained in full force and effect during the operation of the business for which the coverage was issued. Except as otherwise provided for in this section, no registration permit shall be issued until said the certificate is filed with the Administrator. No insurance coverage shall be canceled or terminated without thirty (30) days prior written notice of cancellation or termination to the Administrator.

L. The Board is authorized, upon proof of or a satisfactory showing that any person, firm₇ or corporation is financially able to pay or satisfy any judgment, claim₇ or demand against such the person, firm₇ or corporation, to waive the insurance coverage required by this section. The Board, in lieu of said the certificate, may require the deposit, with the Administrator, of securities, or satisfactory indemnity bond, in an amount and of a kind designated by the Board, to secure the liability of such person, firm₇ or corporation to pay any judgment, claim₇ or demand. Such The security shall not be in excess of the limits set forth in this section. If the Board deems the financial status of such person, firm₇ or corporation to be impaired so as to reduce the ability of such person, firm₇ or corporation to be impaired so as to reduce the ability of such person, firm₇ or corporation to make payment or to

satisfy any judgment, claim_{τ} or demand, the Board may revoke such <u>the</u> waiver and require such <u>the</u> person, firm_{τ} or corporation to file certificates required by this section within thirty (30) days after written notice is sent by the Board to such <u>the</u> person, firm_{τ} or corporation.

SECTION 4. AMENDATORY 52 O.S. 2011, Section 420.6, is amended to read as follows:

Section 420.6 A. The State Liquefied Petroleum Gas Administrator is authorized to suspend or revoke any registration permit issued by the Oklahoma Liquefied Petroleum Gas Board or impose an administrative penalty, if it is found at a hearing on the matter, that the registrant has violated or is violating or has failed or is failing to comply with any provisions of the Oklahoma Liquefied Petroleum Gas Regulation Act, any rules or specifications promulgated or any order issued thereto, or has delivered a lesser quantity of gas than the registrant bills the customer for with intent to defraud.

B. 1. Upon the motion of the Administrator, or upon the receipt of written complaint from any member of the Board, or from any deputy administrator or safety code enforcement officer, that a registrant has violated or is violating or has failed or is failing to comply with any of the provisions of the Oklahoma Liquefied Petroleum Gas Regulation Act, the rules, or specifications promulgated or any order issued thereto, the Administrator is authorized and it shall be the duty of the Administrator to hold an administrative hearing pursuant to Article II of the Administrative Procedures Act to consider such complaint.

2. The Administrator shall have the power to conduct investigations; to summon and compel the attendance at such hearing of witnesses; to require the production of any records or documents pertinent to the subject matter of any investigation or hearing; and to provide for the taking of depositions of witnesses.

3. Notice of the date, time and place of any such hearing shall be given by registered mail not less than ten (10) days, exclusive of the date of mailing, before the date thereof, addressed to the registrant complained against and to any other parties involved, each of whom shall have the right to file answer, to appear and be heard in person and by counsel, and to present evidence at such hearing.

C. If the Administrator finds at the hearing that the registrant has violated or is violating or has failed or is failing to comply with any provision of the Oklahoma Liquefied Petroleum Gas Regulation Act or such rules, specifications or any order issued thereto, the Administrator, if the findings justify such action, shall issue an order suspending the registrant's registration permit for a period not to exceed ninety (90) days, revoking the registration permit, or imposing an administrative penalty of not more than Five Hundred Dollars (\$500.00) One Thousand Dollars (\$1,000.00) for each separate offense. Any administrative penalty imposed pursuant to this section shall be deposited into the Liquefied Petroleum Gas Fund, created pursuant to Section 420.11 of this title.

D. 1. The Administrator's findings, judgment and order shall be reduced to writing and be recorded in a permanent public record to be retained in the office of the Administrator. Copies shall be furnished to the registrant complained against and to the Board.

2. Any registrant who has been assessed an administrative penalty or whose registration permit is suspended or revoked by the Administrator may, pursuant to Section 317 of Title 75 of the Oklahoma Statutes, file for a rehearing, reopening or reconsideration by the Board. The registrant shall be given the opportunity to request a de novo hearing by the Board. Such decision by the Board shall constitute final action by the Board.

3. Any registrant who has been assessed an administrative penalty or whose registration permit has been suspended or revoked upon review by the Board may, within thirty (30) days after such filing, suspension or revocation, file an appeal with the district court of Oklahoma County or in the county wherein the registrant resides or has its principal place of business in this state, pursuant to Article II of the Administrative Procedures Act.

E. 1. Except for an emergency as determined by the Board upon the filing of a request for a rehearing, reopening or reconsideration or as determined by the court upon an appeal for judicial review of the order, enforcement of the Administrator's order shall be stayed pending final disposition of such rehearing or appeal.

2. Upon affirmance, the order shall become final and conclusive and the stay of enforcement shall be vacated.

F. The Board shall promulgate reasonable rules governing the sale or transfer of business, facilities or a permit connected with or to be used in operations subject to regulation pursuant to the Oklahoma Liquefied Petroleum Gas Regulation Act.

SECTION 5. AMENDATORY 52 O.S. 2011, Section 420.9, is amended to read as follows:

Section 420.9 A. All liquefied petroleum gases designated as commercial propane, commercial butane, or mixtures thereof, sold for consumption in this state, shall, when subjected to the test methods of the Gas Processors Association of America, meet applicable specifications adopted as tentative standards by said the Association for the particular product sold.

B. All vehicles used in hauling or transporting liquefied petroleum gases upon the highways of this state shall be identified in such manner as the Administrator may, by rule, prescribe.

C. The Department of Public Safety of the State of Oklahoma shall cooperate with the Administrator in the enforcement of the provisions of this section, and the rules promulgated thereunder.

D. Transport trucks transporting liquefied petroleum gases intrastate which are owned or operated by a person subject to and licensed by the Oklahoma Liquefied Petroleum Gas Regulation Act shall not be required to obtain or possess an intrastate motor carrier or private carrier license issued by the Oklahoma Corporation Commission.

E. Transport trucks transporting liquefied petroleum gases out of the state, but not required to bear Oklahoma license, shall not be subject to the permit fees prescribed by the Oklahoma Liquefied Petroleum Gas Regulation Act, but shall be subject to all of the other requirements of the Oklahoma Liquefied Petroleum Gas Regulation Act and any safety rule or specification promulgated thereunder.

F. Bulk deliveries of liquefied petroleum gases at retail shall be metered in accordance with rules promulgated by the LP-Gas Board.

G. Containers shall be filled or used only upon authorization of the fee simple owner. The name of the fee simple owner, if other than the consumer, shall be conspicuously shown on the container.

H. F. At least one attendant shall remain close to the transfer connection from the time the connections are first made until they are finally disconnected, during the transfer of the product. During the actual transfer of liquids into containers at domestic type dwellings and installations, the attendant shall not enter into any type of enclosure including but not limited to truck cabs, dwellings, and barns and shall maintain visual contact with the liquid level gauge at all times.

SECTION 6. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval. Passed the Senate the 25th day of April, 2018.

Presiding Officer of the Senate

Passed the House of Representatives the 19th day of April, 2018.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

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