

SECOND REGULAR SESSION

HOUSE BILL NO. 1897

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KOLKMEYER.

6069H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 323.010, 323.025, and 323.050, RSMo, and to enact in lieu thereof three new sections relating to propane gas.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 323.010, 323.025, and 323.050, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 323.010, 323.025, and 323.050, to read as follows:

323.010. For the purposes of this chapter, the following words and phrases shall mean:

(1) "Affiliated industry", any person or firm engaged in the manufacturing, assembling, and marketing of appliances, containers, and products used in the propane industry, the interstate or intrastate transportation or storage of propane, the installation or design of propane piping systems, or other such affiliation with the commercial, residential, or agricultural use of propane by consumers in Missouri;

(2) **"Autogas", propane used solely as the primary motor fuel for internal combustion engines for vehicles in highway use;**

(3) "Commission", the Missouri propane [gas] **safety** commission;

~~[(3)]~~ (4) "Compressed natural gas" (CNG), a mixture of hydrocarbon gases and vapors, consisting principally of methane in gaseous form that has been compressed for use as a vehicular fuel;

~~[(4)]~~ "Director", the executive director of the commission;]

(5) "Dispensing station", a system of compressors, safety devices, cylinders, piping, fittings, valves, regulators, gauges, relief devices, vents, installation fixtures and other compressed natural gas equipment intended for use in conjunction with motor vehicle fueling

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 by compressed natural gas but does not include a natural gas pipeline located upstream of the
18 inlet of the compressor;

19 (6) "Liquefied petroleum gas", any material which is composed predominantly of any
20 of the following hydrocarbons, or mixtures of the same: propane, propylene, butanes (normal
21 butane or isobutane), and butylenes;

22 (7) "Motor vehicle", all vehicles except those operated on rails which are propelled by
23 internal combustion engines and are used or designed for use in the transportation of a person
24 or persons or property;

25 (8) "Person", any individual, group of individuals, partnership, association, cooperative,
26 corporation, or any other entity;

27 (9) "Producer", the owner of the propane at the time it is recovered at a manufacturing
28 facility, irrespective of the state where production occurs;

29 (10) "Propane", propane, butane, mixtures of propane and butane, and liquefied
30 petroleum gas, as defined by the National Fire Protection Association Standard 58 for the storage
31 and handling of liquefied petroleum gases;

32 (11) "Public member", a member of the commission who is a resident of Missouri, is a
33 user of odorized propane, and is not related by the third degree of consanguinity to any retailer
34 or wholesale distributor of propane;

35 (12) "Retail marketer", a business engaged primarily in selling propane gas, its
36 appliances, and equipment to the ultimate consumer or to retail propane dispensers;

37 (13) "Wholesaler" or "reseller", a seller of propane who is not a producer and who does
38 not sell propane to the ultimate consumer.

323.025. 1. There is hereby created within the department of agriculture the "Missouri
2 Propane [Gas] **Safety** Commission", which shall constitute a body corporate and politic, an
3 independent instrumentality exercising essential public functions. The commission shall ensure
4 the administration and enforcement of this chapter and all rules and regulations and orders
5 promulgated thereunder. The powers of the commission shall be vested in nine commissioners,
6 who shall be residents of this state, to be appointed by the governor, by and with the advice and
7 consent of the senate. The commission shall consist of one member representing multistate retail
8 marketers of propane, one member representing wholesalers or resellers of propane, one member
9 from a county of the third classification representing retail marketers of propane, one member
10 who is affiliated with the Mechanical Contractors Association in Missouri, one member affiliated
11 with the Plumbing Industry Council, one member representing an affiliated industry, one
12 member representing the department of agriculture, [one member representing the department
13 of natural resources] **the Missouri state fire marshal or his or her designee**, and one public
14 member. The commissioners annually shall elect from among their number a [chairman]

15 **chairperson** and a vice [chairman] **chairperson**, and such other officers as they may deem
16 necessary.

17 2. The commissioners shall serve five-year terms, with each term beginning July first and
18 ending on June thirtieth. However, of the commissioners first appointed, two shall be appointed
19 for a term of two years, two shall be appointed for a term of three years, two shall be appointed
20 for a term of four years, and three shall be appointed for a term of five years. Each commissioner
21 appointed thereafter shall be appointed for a term ending five years from the date of expiration
22 of the term for which his **or her** predecessor was appointed. A person appointed to fill a vacancy
23 prior to the expiration of such a term shall be appointed for the remainder of the term. No
24 commissioner appointed by the governor under this section shall serve more than one full term.
25 For those commissioners first appointed, if such commissioner serves a term less than five years,
26 each shall be eligible to serve one full five-year term. Each commissioner shall hold office for
27 the term of such appointment and until such successor has been appointed and qualified.

28 3. Other than the public member, commission members shall be full-time employees or
29 owners of businesses in the industry or the agency they represent.

30 4. Notwithstanding the provisions of any other law to the contrary:

31 (1) No officer or employee of this state shall be deemed to have forfeited or shall forfeit
32 such office or employment by reason of his acceptance of membership on the commission or
33 such service to the commission;

34 (2) It shall not constitute a conflict of interest for [a director, officer, or] **an** employee
35 of any company selling propane at retail or wholesale, or engaged in the manufacture, sale,
36 installation, or distribution of propane-use equipment, the contracting of propane piping systems,
37 or in the transportation, storage, or marketing of propane, or any other firm, person, or
38 corporation, to serve as a member of the commission, provided such trustee, director, officer, or
39 employee shall abstain from deliberation, action, and vote by the commission in each instance
40 where the business affiliation or public office association of any such trustee, director, officer,
41 or employee is involved.

42 5. Commissioners shall receive no compensation for the performance of their duties
43 under this section, but each commissioner shall be reimbursed from the funds of the commission
44 for his or her actual and necessary expenses incurred in carrying out his or her official duties.

45 6. Meetings shall be held at the call of the [chairman] **chairperson** or whenever two
46 commissioners so request. Five commissioners of the commission shall constitute a quorum,
47 and any action taken by the commission under the provisions of this chapter may be authorized
48 by resolution approved by a majority, but not less than four of the commissioners present at any
49 regular or special meeting. No vacancy in the membership of the commission shall impair the
50 right of a quorum to exercise all the rights and perform all the duties of the commission.

51 7. The commissioners shall employ an executive director. The executive director also
52 shall serve as the secretary for the commission and shall administer, manage, and direct the
53 affairs and business of the commission, subject to the policies, control, and direction of the
54 commissioners. The commission may employ technical experts and such other officers, agents,
55 and employees as deemed necessary, and may fix their qualifications, duties, and compensation.

56 8. The secretary shall keep a record of the proceedings of the commission and shall be
57 custodian of all books, documents, and papers filed with the commission and of its minute book
58 and seal. The secretary shall have the authority to cause to be made copies of all minutes and
59 other records and documents of the commission and to give certificates, under the seal of the
60 commission, to the effect that such copies are true copies, and all persons dealing with the
61 commission may rely upon such certificates. Resolutions of the persons dealing with the
62 commission need not be published or posted unless the commission shall so direct.

63 9. Before entering into his or her duties, each commissioner of the commission shall
64 execute a surety bond for fifty thousand dollars, and the **executive** director shall execute a surety
65 bond for one hundred thousand dollars or, in lieu thereof, the [chairman] **chairperson** of the
66 commission shall execute a blanket bond covering all members, the **executive** director, and the
67 employees or other officers of the commission. Each surety bond shall be conditioned on the
68 faithful performance of the duties of the office or offices covered, shall be executed by a surety
69 company authorized to transact business in this state as surety, shall be approved by the attorney
70 general, and shall be filed in the office of the secretary of state. The cost of each such bond shall
71 be paid by the commission.

72 10. At the beginning of each fiscal year, the commission shall prepare and submit for
73 public comment a budget plan, including the probable costs of all programs, projects, and
74 contracts and a recommended rate of assessment as may be necessary to cover such costs.
75 Publication of the proposed budget in the Missouri Register for at least thirty days shall
76 constitute appropriate public notice. The commission shall approve or modify the budget
77 following the public comment period.

78 11. The commission shall, following the close of each fiscal year, submit an annual
79 report of its activities for the preceding year to the department of agriculture, the governor, and
80 the general assembly. Each report shall set forth a complete operating and financial statement
81 for the commission during the fiscal year it covers. At least once in each year, an independent
82 certified public accountant shall audit the books and accounts of the commission.

83 12. The commission shall have the power necessary to:

- 84 (1) Sue and be sued in its own name;
85 (2) Have an official seal and alter the same at pleasure;
86 (3) Have perpetual succession;

87 (4) Maintain an office at such place or places within this state as the commission may
88 designate;

89 (5) Conduct hearings and mediate disputes arising from the enforcement of this chapter;

90 (6) Disperse funds for its lawful activities and fix salaries and wages of its employees;
91 and

92 (7) Exercise all powers necessary or convenient to accomplish its purposes.

93 13. The commission shall have the following duties:

94 (1) Develop comprehensive plans and programs for the prevention, control and
95 abatement of propane-related accidents in Missouri;

96 (2) Mandate a comprehensive certification training program based on the department of
97 agriculture's existing liquified petroleum gas certification and training program;

98 (3) Promulgate by rule by August 28, 2010, a statewide code for the installation of
99 propane-related equipment;

100 (4) Advise, consult, and cooperate with other agencies of the state, the federal
101 government, other states, and interstate agencies, as well as with affected groups, political
102 subdivisions, and industries in furtherance of the purposes of this chapter;

103 (5) Accept gifts, contributions, donations, loans and grants from the federal government
104 and from other sources, public or private, for carrying out any of its functions. Such funds shall
105 not be expended for other than the purposes for which provided;

106 (6) Exercise general supervision of the administration and enforcement of this chapter
107 and all rules, regulations, and orders promulgated hereunder;

108 (7) Suspend any registration filed under this chapter granted to persons or companies
109 doing business under the requirements of this chapter, if such registrant is in violation of any
110 provision of this chapter;

111 (8) Represent the state of Missouri in all matters pertaining to this chapter, including
112 negotiation of interstate compact agreements;

113 (9) To do any act necessary or convenient to the exercise of the powers granted by or
114 reasonably implied from the provisions of this chapter.

115 14. The director may make such investigations as the director deems necessary to carry
116 out effectively the director's responsibilities under this chapter or to determine whether a person
117 has engaged or is engaging in acts or practices that constitute a violation of any provision of this
118 chapter or of any regulation or plan issued under this chapter. For the purpose of any
119 investigation, the [director] **administrator** is empowered to administer oaths and affirmations,
120 subpoena witnesses, compel their attendance, take evidence, and require the production of books,
121 papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the
122 production of any such records may be required from any place in this state. In case of

123 contumacy by or refusal to obey a subpoena issued to any person, the director may seek
124 enforcement thereof in the circuit court of proper venue.

125 15. The Missouri propane [gas] **safety** commission is hereby authorized to regulate the
126 inspection of and provide specifications for propane as provided in this section.

127 16. A commissioner shall be removed from office by the governor for misfeasance,
128 malfeasance, or willful neglect of duty or other cause after notice and public hearing, unless such
129 notice or hearing shall be expressly waived in writing.

130 17. The director or any designated employee shall have free access, during reasonable
131 hours, to any premises in the state where an installation covered by this chapter is being
132 constructed, or is being installed, for the purpose of ascertaining whether said installation is
133 being constructed and installed in accordance with the applicable provisions.

 323.050. No city, town, village, fire district, **county**, or other political subdivision shall
2 adopt or enforce any ordinance or regulation in conflict with the provisions of this chapter, or
3 with the regulations promulgated under section 323.020. Nothing in this section shall prohibit
4 any political subdivision from establishing a licensing requirement for persons relating to the
5 installation, repair, replacement, or maintenance of [liquefied] **liquefied** petroleum gas and all
6 other fuel gas piping systems.

✓