



# Section 1

## Liquefied Petroleum Gas Law

### § 9-17-100. Definitions.

As used in this article, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

- (1) **AUTHORITY HAVING JURISDICTION.** Alabama Liquefied Petroleum Gas Board.
- (2) **BOARD.** The Alabama Liquefied Petroleum Gas Board.
- (3) **BRANCH.** A local unit of an LP-gas business that is one or more of the following:
  - a. A division or subdivision or a person doing business under a name other than the Class A permit holder's name.
  - b. A place where the day-to-day retail operations of an LP-gas business are conducted and at which at least three of the following activities occur or conditions exist:
    1. Sales of appliances.
    2. Orders are taken for LP-gas repair and service.
    3. Orders are taken to refill LP-gas systems either by phone or in person.
    4. Employees are present during a normal workday.
    5. Is a place that requires a city or county license to conduct business.
- (4) **LP.** Liquefied petroleum gas.
- (5) **LPG.** Liquefied petroleum gas.
- (6) **LP-GAS.** Liquefied petroleum gas.
- (7) **LIQUEFIED PETROLEUM GAS.** Any material having vapor pressure not exceeding that allowed for commercial propane composed predominantly of the following hydrocarbons, either by themselves or as mixtures: propane, propylene, butanes (normal butane or isobutane), and butylenes.
- (8) **LIQUEFIED PETROLEUM GAS RESEARCH AND EDUCATION FUND.** A fund created to finance activities relating to research, development, and the implementation of marketing, advertising, and informational programs relating to LP-gas directed toward the consumer as well as for the education of industrial members and employees.
- (9) **LIQUEFIED PETROLEUM GAS SYSTEM.** Any assembly consisting of one or more containers with a means for conveying LP-gas from the container(s) to dispensing or consuming devices (either continuously or intermittently) and which incorporates

components intended to achieve control of quality, flow, pressure, or state (either liquid or vapor).

**(10) PERSON.** Every natural person, firm, copartnership, association, or corporation.

**(11) RED TAG.** A red card or device containing an official printed notice of the condemnation of a liquefied petroleum gas system or any connected or disconnected LP-gas component, LP-gas storage container, LP-gas container appurtenance, or LP-gas motor vehicle, transport, or delivery unit placed as a result of a violation of the liquefied petroleum gas safety code provisions and regulations, or as a result of a mechanical defect found on the LP-gas motor vehicle, transport, or delivery unit that could cause a danger to the public if allowed to continue to operate. When attached to a system or to any connected or disconnected LP-gas component, LP-gas storage container, LP-gas appurtenances, motor vehicle, transport, or delivery unit a red tag is official notice of condemnation and of the prohibition of further use, so long as the red tag remains affixed by law. (Acts 1965, No. 220, p. 305, § 1; Acts 1984, No. 84-293, p. 555, § 1; Acts 1989, No. 89-535, p. 1097, § 1; Acts 1993, No. 93-632, p. 1079, § 1; Acts 1994, No. 94-211, p.283, § 1.)

**§ 9-17-101. Liquefied Petroleum Gas Board—Creation; composition; qualifications, appointment and terms of office of members; election of officers; meetings; quorum; bylaws; rules and regulations.**

**(a)** There is created and established the Alabama Liquefied Petroleum Gas Board. The board shall be composed of eight members: The State Fire Marshal; the State Director of Public Safety; the President of the Alabama Public Service Commission; four members who are representatives of the liquefied petroleum gas retail Class A permit holders; and one member of the general public who shall be appointed by the Governor.

**(b)** Members of the board who are representatives of the liquefied petroleum gas retail permit holders shall have been legal residents of the State of Alabama for at least five years next preceding the date of appointment and shall have been actively engaged in the retail distribution of liquefied petroleum gas in this state for a period of at least five years. No retail Class A permit holder shall have more than one representative on the board at any one time. It is the legislative intent that no single corporation or partnership comprised of separate entities within the state, whether or not separately licensed, be represented on the board by more than one representative at any one time.

**(c)** From each of four substantially equal geographical areas of the state, designated as the southeast, the northeast, the northwest, and the southwest, the Governor shall appoint one retail permit holder member of the board. Such member shall be appointed from a list of no more than three nominees receiving the largest number of votes according to written ballots executed by representatives of retail Class A permit holders.

**(d)** In the event the Governor has not appointed a board member at the end of 90 days after the list of retail permit holders has been submitted to him or her, the person on the list having the most votes shall become the board member. In the event of a tie for the most votes, a majority

vote of the board members shall determine which person of those tied shall become the board member.

(e) In the event a vacancy occurs during the term of a board member, the administrator shall call an election to fill the vacancy and the election shall be held and conducted pursuant to subsection

(f). When an elected board member sells his or her LP-gas business or for any reason is no longer actively engaged in the day-to-day operation of an LP-gas business, his or her seat on the board shall be automatically vacated by the completion of the next regularly scheduled board meeting.

(f) The balloting for board members, successor members, and filling vacancies for an unexpired term of office shall be conducted by the administrator of the board under the direction and supervision of the board. For appointments and vacancies, the administrator shall forward by registered or certified mail an official ballot to each retail permit holder or his or her duly designated representative with instructions for executing the ballot and returning it to the board. The terms of all board members shall be for six years, including the consumer member and members serving on March 20, 1992, but no member shall be denied the right to succeed himself or herself and no member shall serve more than two consecutive terms of office.

(g) The board shall elect its own chair and vice-chair at its first regular meeting each calendar year. All meetings of the board shall be held at Montgomery, Alabama, and shall be on a prescribed date, at least quarterly, and at such time as a majority of the board members may request in writing to the board chairman. Each ex officio member of the board may appoint a designee to represent him or her at all board meetings. Any four members, or their designees, shall constitute a quorum for the transaction of any business which may come before the board. The board may adopt bylaws and rules of administrative procedure, pursuant to the Alabama Administrative Procedure Act.

(h) The board may promulgate rules and regulations having the force and effect of law to carry out this article. (Acts 1965, No. 220, p. 305, § 2; Acts 1979, No. 79-435, p. 690, § 1; Acts 1988, No. 88-142, p. 215, § 3; Acts 1989, No. 89-535, p. 1097, § 1; Acts 1992, No. 92-123, p. 213, § 3; Act 2004-87, p. 111, § 3.)

#### **§ 9-17-102. Liquefied Petroleum Gas Board—Compensation of members.**

Board members shall receive travel expenses and per diem based at the rate that is currently prescribed by the state for its state employees, while attending official meetings of the board or while attending to official board business. Except that per diem paid to board members shall be no less than one full day's per diem, and payment shall be based on attendance at a board meeting rather than the time of arrival and departure. No member of the board shall receive per diem and expense allowance for more than 30 days in any one calendar year. (Acts 1965, No. 220, p. 305, § 3; Acts 1966, Ex. Sess., No. 231, p. 354 § 1; Acts 1979, No. 79-435, p. 690 § 1; Acts 1984, No. 84-293, p. 555, § 1; Acts 1989, No. 89-535, p. 1097, § 1.)

**§ 9-17-103. Liquefied Petroleum Gas Board—Promulgation, etc., of rules and regulations; inspection of gas systems**

(a) The board shall have the power to make and enforce rules and regulations governing the design, construction, location, installation, and operation of containers, tanks, systems, and equipment for storing, utilizing, handling, and transporting liquefied petroleum gases and rules to secure the substantial accuracy of all meters, safety devices, and regulators generally used in connection with such gases. No person shall be permitted to certify the accuracy of their own company-owned meters. The rules and regulations shall be such as are reasonably necessary for the protection of the health and safety of the public and persons using such gases, and shall be adopted pursuant to the Alabama Administrative Procedure Act. All rules and regulations shall be posted on the board website and available for download by the public. The board, upon request, shall provide a printed hard copy of the rules and regulations. If a rule or regulation is amended, the revised rule shall be posted on the board website before the revision becomes effective.

(b) In order that the administrator of the board and inspectors may determine whether or not a danger to the public or to a liquefied petroleum gas user exists, and there is reasonable cause to believe that such danger does exist, the said administrator and inspectors may enter any building or upon any premises connected to a liquefied petroleum gas system for the sole purpose of conducting an inspection or an investigation of such system. If a violation is found in conducting such inspection which is determined to be a hazard and a danger to the public or to a liquefied petroleum gas user, said administrator and inspectors shall have the power, duty, and authority to shut off the liquefied petroleum gas system and to condemn the system from further use for purposes of safety until the gas system has been certified as back in compliance with adopted liquefied petroleum gas safety code standards and until the red tag is removed, or authorized to be removed, by a board appointee or employee. When a system is condemned, it shall be “red-tagged.” (Acts 1965, No. 220, p. 305, § 5; Acts 1984, No. 84-293, p. 555, § 1; Acts 1988, No. 88-142, p. 215, § 3.)

**§ 9-17-104. Appointment and compensation of administrator; administrator and inspectors constituted peace officers; Liquefied Petroleum Gas Board Fund; excess balances to be transferred to fund.**

(a) The board shall appoint, prescribe the duties of, and fix the compensation of an administrator. The board may dismiss an administrator at its discretion. The board shall adopt a seal, which shall be in the care and custody of the administrator. The board, subject to the merit system, may employ and prescribe the duties of assistants and inspectors necessary to carry out this article. The board, without regard to the Merit System Act, may engage and employ consultants and technical advisors considered necessary in carrying out its responsibilities.

(b) The administrator and inspectors are constituted peace officers of the State of Alabama and are clothed with the powers of peace officers and deputy sheriffs, and may exercise such powers anywhere within the state. They may issue a warning ticket or a uniform nontraffic citation to or arrest violators of Sections 40-17-160 to 40-17-166, inclusive, and any state or federal law or regulation adopted by the board relating to the transportation of liquefied petroleum gas and carry such violators before the district court in the county in which the violation is committed.

(c) All fees and penalties collected under this article or otherwise inuring to the credit of the board shall be deposited in the State Treasury in a fund designated the “Liquefied Petroleum Gas Board Fund,” which is established by this subsection. All expenditures from the fund shall be subject to the terms, conditions, provisions, and limitations of Title 41, Chapter 4, Article 4.

(d) All balances in the fund in excess of two hundred thousand dollars (\$200,000) at the end of each fiscal year shall be transferred to the Liquefied Petroleum Gas Research and Education Fund established in the State Treasury. The monies in the Liquefied Petroleum Gas Research and Education Fund shall be paid out only by warrant of the Comptroller upon the Treasurer, upon itemized vouchers, approved by the administrator; provided, that no funds shall be withdrawn or expended except as budgeted and allotted according to the provisions of Sections 41-4-80 through 41-4-96 and Sections 41-19-1 through 41-19-12, and only in amounts as stipulated in the general appropriation or other appropriation bills each new fiscal year for research, development, training, and the implementation of marketing, advertising, and information programs relating to LP-gas. Any other appropriations, grants, or other sources of funding made available for the purpose of LP gas research and education shall be deposited in the LP Gas Research and Education Fund. (Acts 1965, No. 220, p. 305, § 4; Acts 1966, Ex. Sess., No. 231, p. 354, § 1; Acts 1979, No. 79-435, p. 690, § 1; Acts 1984, No. 84-293, p. 555, § 1; Acts 1989, No. 89-535, p. 1097, § 1; Acts 1992, No. 92-123, p. 213, § 3; Acts 1993, No. 93-632, p. 1079, § 2.)

**§ 9-17-105. Classification of permits; LP-Gas Recovery Fund; proof of insurance; surety bond; exception for state agency, county, etc.; Liquefied Petroleum Gas Board Personal Bond Fund; change of permit holder’s name; further local requirements prohibited.**

(a) The board may issue permits to any person, who is a citizen of the United States, or if not a citizen of the United States, is legally present in the United States with appropriate documentation from the federal government, to engage in or continue the business of selling, distributing, storing, or transporting liquefied petroleum gases and to engage in or continue the business of installing, servicing, repairing, removing, or adjusting liquefied petroleum gas containers, tanks, or systems or to perform magnetic, hydrostatic, visual, or x-ray inspections of liquefied petroleum gas storage containers, cargo tanks, motor fuel containers, and cylinders in the State of Alabama; and to prescribe the requirements of any person to obtain the permits. The board may revoke any permit issued for cause, in the opinion of the board.

**(b) The permits shall be of 10 types:**

(1) **PERMIT A.** Shall give the holder a right to engage in or continue the business of selling, distributing, storing, or transporting liquefied petroleum gases and to engage in or continue the business of installing, servicing, repairing, or adjusting liquefied petroleum gas containers, tanks, or systems at retail or installing, repairing, servicing, removing, or adjusting liquefied petroleum carburetion equipment, or to perform magnetic, hydrostatic, visual, or x-ray inspections of liquefied petroleum gas storage containers, cargo tanks, motor fuel containers, and cylinders. Before any person engages in or continues the business of selling, distributing, storing, or transporting liquefied petroleum gases, except where the liquefied petroleum gas so handled is in quantities of less than one gallon U.S. water capacity and is an integral part of a device for its

utilization, or before any person engages in the business of installing, servicing, removing, repairing, or adjusting liquefied petroleum gas containers, tanks, or systems at retail or installing, repairing, servicing, removing, or adjusting liquefied petroleum carburetion equipment, or to perform magnetic, hydrostatic, visual, or x-ray inspections of liquefied petroleum gas storage containers, cargo tanks, motor fuel containers, and cylinders in the State of Alabama, the person shall first obtain from the board a Permit A and shall execute and file with the board the insurance as herein required. The holder of a Permit A shall ensure that only trained and qualified personnel perform the functions approved by the permit.

In addition to the requirement of possessing a Class A permit, persons doing business as or in a name other than the name listed on the Class A permit shall be required to have a separate Class B-1 permit unless the person doing business as or in another name has a separate Class A permit for each business.

**(2) PERMIT B.** Shall give the holder a right to engage in or continue the business of transporting, storing, distributing, and/or selling liquefied petroleum gas at wholesale or in unit quantities of 5,000 gallons or more at retail to end users or act as wholesale distributors, suppliers, or agents thereof or act as a consignor or shipper that delivers or causes LP-gas to be delivered in the State of Alabama. Before any person engages in or continues the business of transporting, storing, distributing, and/or selling liquefied petroleum gas at wholesale in any quantity to retailers or retail to end users in unit quantities of 5,000 gallons or more or to other wholesale distributors, suppliers, or agents thereof in the State of Alabama and not being a holder of a Permit A, the person shall first obtain from the board a Permit B and shall execute and file the insurance as required herein, except that those wholesale distributors, suppliers, consignors, shippers, or agents thereof who only sell liquefied petroleum gas at wholesale and transport no gas in the state shall not be required to file a motor vehicle liability certificate of insurance with the board. Class B permit holders shall keep records and shall report monthly, and at all other times as the board shall deem necessary, all sales of liquefied petroleum gas made to retailers, end users, and to other wholesale distributors, suppliers, or agents in this state. Failure to make timely reports and pay required fees shall cause interest and penalties to be assessed as described in Section 9-17-109. Any person possessing a valid Class A permit shall not be required to obtain a Class B permit. The holder of a Permit B shall ensure that only trained and qualified personnel perform the functions approved by the permit.

**(3) PERMIT B-1.** Shall give the holder a right to operate an individual branch, division, or subdivision or to act as an agent of a Class A permit holder to engage in or continue the business of selling, storing, or transporting liquefied petroleum gases at retail and to engage in or continue the business of installing, servicing, repairing, removing, or adjusting liquefied petroleum gas containers, tanks, or systems at retail or to install, repair, remove, service, or adjust liquefied petroleum carburetion equipment, or to perform magnetic, hydrostatic, visual, or x-ray inspections of liquefied petroleum gas storage containers and cylinders.

Certified representatives of Class A or B-1 permit holders who only operate retail cylinder exchange stations shall not be required to obtain a Class B-1 permit, but shall be certified as representatives on forms provided by the board before installation of any equipment. Cylinder exchange stations shall operate under the permit and insurance of the sponsoring Class A or B-1 permit holder. Certification forms for retail cylinder exchange stations shall only be submitted to

the board for installations that are in compliance with all applicable codes at the time of installation.

Existing, retail, off-premise cylinder filling stations formerly certified as authorized agents of a Class A or B-1 permit holder shall obtain a Class F permit on or before August 01, 2015, to continue operations. No permit holder may supply LP-gas to any retail, off-premise cylinder filling station that is required to possess a Class F permit without verification of a current Class F permit with the board.

Before any person engages in or continues in the operation of an individual branch, division, or subdivision or acts as an agent of a valid Class A permit holder to sell, store, or transport liquefied petroleum gas and to install, service, repair, or adjust liquefied petroleum gas containers, tanks and systems at retail, or to install, repair, service, remove, or adjust liquefied petroleum carburetion equipment, or to perform magnetic, hydrostatic, visual, or x-ray inspections of liquefied petroleum gas storage containers, cargo tanks, motor fuel containers, and cylinders, the person shall first obtain from the board a Permit B-1, meet the minimum storage requirements set out in Section 9-17-107, and shall execute and file with the board the insurance as herein required. Branches that were in operation when this article became law shall not be required to meet the storage requirement of Section 9-17-107. A Class B-1 permit holder shall not be required to file or maintain separate or additional insurance as specified by this section provided that the Class B-1 permit holder is included in the parent company's Class A permit insurance on file with the board. The holder of a Permit B-1 shall ensure that only trained and qualified personnel perform the functions approved by the permit.

**(4) PERMIT C.** Shall give the holder a right to engage in or continue the business of installing, servicing, repairing, removing, or adjusting liquefied petroleum gas piping and installing, servicing, repairing, removing, or adjusting liquefied petroleum gas appliances on the down stream side of the tank outlet valves only. Before any person engages in or continues the business of installing, servicing, repairing, removing, or adjusting liquefied petroleum gas piping, and installing, servicing, repairing, removing, or adjusting liquefied petroleum gas appliances on the down stream side of the tank outlet valves only, and not being a holder of a Permit A and B-1, the person shall first obtain from the board a Permit C and execute and file with the board the insurance as herein required. A separate permit shall be required for each business location. The holder of a Permit C shall ensure that only trained and qualified personnel perform the functions approved by the permit.

**(5) PERMIT C-1.** Shall give the holder a right to engage in or continue the business of installing, servicing, repairing, removing, or adjusting any liquefied petroleum gas motor fuel carburetion equipment, the repair of appurtenances on motor fuel containers, cylinders, or carburetion components. Before any person engages in or continues the business of installing, servicing, repairing, removing, or adjusting liquefied petroleum gas motor fuel carburetion equipment, the repair of appurtenances on motor fuel containers, cylinders, or carburetion components in the State of Alabama, the person shall execute with the board the insurance herein required. Class A or B-1 permit holders shall not be required to obtain a Permit C-1. A separate permit shall be required for each business location. The holder of a Permit C-1 shall ensure that only trained and qualified personnel perform the functions approved by the permit.

**(6) PERMIT C-2.** Shall give the holder a right to engage in or continue the business of performing magnetic, hydrostatic, visual, or x-ray inspections of liquefied petroleum gas storage containers, cargo tanks, motor fuel containers, and cylinders. Before any person engages in or continues the business of performing magnetic, hydrostatic, visual, or x-ray inspections of liquefied petroleum gas storage containers, cargo tanks, motor fuel containers, and cylinders in the State of Alabama and not being a holder of a Permit A or B-1 the person shall obtain a Class C-2 Permit and execute with the board the insurance herein required. A separate permit shall be required for each business location. The holder of a Permit C-2 shall ensure that only trained and qualified personnel perform the functions approved by the permit.

**(7) PERMIT D.** Shall give the holder a right to engage in or continue the business of installing, repairing, or removal of bulk storage systems of 5,000 gallons water capacity or more in single containers or in an aggregate of 5,000 gallons water capacity of a multi-container installation only. Before any person engages in or continues the business of installing bulk storage systems of 5,000 gallons water capacity or more in single containers or in a multi-container installation of an aggregate of 5,000 gallons water capacity, in the State of Alabama and not being a holder of a Permit A, the person shall first obtain from the board a Permit D and shall execute and file with the board the insurance as herein required. The holder of a Permit D shall ensure that only trained and qualified personnel perform the functions approved by the permit.

The board shall require holders of a Permit D to submit plans for any proposed installation of any liquefied petroleum gas storage facility they are planning to install that is authorized under the terms of their permit. They shall obtain approval for the location and for the plans from the administrator of the board before construction is begun. All facilities shall be constructed according to rules and regulations of the board and the completed unit shall have board approval before being used. A minimum fee of two hundred dollars (\$200) shall be paid to the board at the time the plans for each facility are presented for approval. This fee of two hundred dollars (\$200) will cover examination of the plans and one site inspection. An additional fee of fifty dollars (\$50) for each inspection trip to the site that is required shall be paid to the board before final approval is given for the facility to be used. These fees may be changed by action of the board.

**(8) PERMIT E.** Shall give the holder a right to engage in or continue the business of calibration and/or repair of liquefied petroleum gas liquid meters.

Before any person engages in or continues the business of calibration, or repair, or both of liquefied petroleum gas liquid meters, in the State of Alabama and not being a holder of a Permit A, that person shall first obtain from the board a Permit E and shall execute and file with the board the insurance as herein required. The holder of a Permit E shall ensure that only trained and qualified personnel perform the functions approved by the permit.

**(9) PERMIT F.** Shall give the holder the right to engage in or continue the retail business of filling LP-Gas cylinders or LP-Gas motor fuel containers, or both, of less than 351 pounds water

capacity from a stationary filling station. Before any person engages in or continues in the business of filling LP-Gas cylinders or LP-Gas motor fuel containers, or both, and not being a holder of a Permit A or Permit B-1, the person shall first obtain from the board a Permit F and shall execute and file with the board the insurance as herein required. Owners of businesses that hold a Permit F shall ensure that only trained, qualified personnel fill cylinders that contain LP-gas. A separate permit and insurance certificate shall be required for each filling station. End users filling cylinders only for their own use shall not be required to obtain a Class F permit.

**(10) PERMIT F-1.** Shall give the holder the right to engage in or continue in the business of selling or filling welding or cutting gases as defined in subdivision (7) of Section 9-17-100 or selling or filling LP-gas cylinders or LP-gas motor fuel containers, or both, of less than 351 pounds water capacity from a stationary filling station and to transport welding or cutting gases, LP-gas cylinders, or LP-gas motor fuel containers or any combination of these. To qualify for a Class F-1 permit, the applicant shall be in the business of selling welding or cutting gas supplies and shall meet all state and federal regulations for the transportation of LP-gas. Holders of a Permit F-1 shall not transport LP-gas in any bulk quantity. Holders of a Permit F-1 shall not operate off-premise retail cylinder exchanges or any type off-premise cylinder filling stations. Owners of businesses that hold a Permit F-1 shall ensure that only trained, qualified personnel fill or transport containers or cylinders that contain LP-gas. Before any person engages in or continues in the business of selling, transporting, or filling welding or cutting gases, LP-gas cylinders, or LP-gas motor fuel containers, or any combination of these, when the person is not a holder of either a Permit A or Permit B-1, the person shall first obtain from the board a permit F-1 and shall execute and file with the board the insurance as herein required. A separate permit and insurance certificate shall be required for each distribution location .

**(11) TEMPORARY AUTHORIZATION TO OPERATE.** The administrator may issue temporary authorization to operate for Class B, B-1, C, C-1, C-2, D, E, F, and F-1 applicants as soon as all permit issuance requirements have been completed. The temporary authorization to operate shall remain in effect until the next regular board meeting, unless the board extends the effective date of any such temporary authorization to operate by official action.

(c) Upon abolition of the LP-Gas Recovery fund, the remaining funds in the account shall be transferred to the board at the beginning of the next fiscal year.

(d) An applicant for any of the 10 permits shall provide the board with evidence of minimum insurance coverage by an insurance company or companies licensed to do business in the state. Proof of insurance shall only be accepted on a form approved by the Alabama Department of Insurance. In the absence of proof of minimum insurance requirements, new permits shall not be issued, and existing permits shall be automatically cancelled. The permit may be reinstated if current proof of insurance is provided within 6 months of cancellation. After a permit has been cancelled for six months, a new permit shall be applied for in the manner previously set by the board. The minimum insurance requirements are as follows:

**Commercial General Liability Insurance: (All 10 Permits)**

One million dollars (\$1,000,000) – Each Occurrence

One million dollars (\$1,000,000) – Personal & Advertising Injury

One million dollars (\$1,000,000) – General Aggregate

One million dollars (\$1,000,000) – Products and Completed Operations Aggregate

**Commercial Automobile Liability Insurance (A, B, B-1,E, & F-1 Permits)**

One million dollars (\$1,000,000) – Combined Single Limit

Five million dollars (\$5,000,000) – Combined Single Limit or in combination with umbrella coverage for cargo vehicles with 3500 gallon water capacity, or more.)

(e) Any state, county, or any incorporated municipality or agency, or instrumentality thereof and any industrial user who makes application and possesses a Class C permit shall not be required to file with the board proof of liability insurance, provided that all of the servicing, repairing, adjusting, removing, and installing of LP-gas equipment, appliances, and systems is only being accomplished on their own LP-gas equipment, appliances and systems.

(f) Whenever a Class A, B or B-1 permit holder's company name has changed, all vehicles and equipment assigned to the company shall be relettered with the new company name as follows: By the annual renewal of the company permit or within 180 days of the name change, whichever is greater, provided, for good cause shown the board may extend the date by official action. LP-gas delivery cargo vehicles or equipment placed in operation shall be lettered and placarded as required by the applicable section of the Code of Federal Regulations, Title 49. Vehicles and equipment not lettered with the company name within the described period or in accordance with Code of Federal Regulations, Title 49 shall be removed from service until the proper company name is affixed to the vehicle or equipment by the owner.

(g) Counties, municipalities, or other local entities are prohibited from requiring any further local testing or other requirements of LP-gas servicemen, certified by the LP-gas board, subject to the payment of any applicable local privilege, license, or business fees or charges. (Acts 1965, No. 220, p. 305, § 6; Acts 1979, No. 79-435, p. 690 § 1; Acts 1984, No. 84-293, p. 555, § 1; Acts 1988, No. 88-142, p. 215, § 3; Acts 1989, No. 89-535, p. 1097, § 1; Acts 1992, No. 92-123, p. 213, § 3; Acts 1994, No. 94-211, p.283§ 2, Acts 1997, No. 97-685p.1361, § 1; Acts 2008-128, § 3.)

**§ 9-17-106. Permit fees; report and payment of fees by certain end users, supplier, permit holders; invoice cost; exemption from Section 40-12-84.**

(a) **Fees for Permit A and Permit B.** Every applicant for a Permit A or a Permit B, at the time of issuance, shall pay to the board a fee of three hundred dollars (\$300) and annually thereafter pay to the board a fee of two hundred dollars (\$200). Permits and fees shall be due on October 1 and delinquent after October 31 of each year.

Every person required to renew permits and pay fees who fails to do so by the delinquent date shall incur a penalty of ten dollars (\$10) for each day he or she is delinquent in complying with this section, and the penalty shall be paid to the board before the issuance of the permit.

Delinquency shall be determined by the United States Postal Service postmark when the date on the postmark falls on a date later than the delinquent date.

**(b) Fees for Permit B-1.** Every applicant at the time of issuance shall pay to the board a fee of one hundred dollars (\$100) and annually thereafter pay to the board a fee of one hundred dollars (\$100). The permits and fees shall be due on October 1 and delinquent after October 31 of each year.

Every person who is required to renew permits and who fails to pay the fees by the delinquent date shall have the permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for the delinquency and submit payment of the regular fee of one hundred dollars (\$100) plus a penalty of fifty dollars (\$50). The fees and penalties shall be paid to the board before the permit shall be reissued. Delinquency shall be determined by the United States Postal Service postmark when the date on the postmark falls on a date later than the delinquent date. After a permit has been cancelled for six months, the permit shall be applied for in the manner previously set by the board.

**(c) Fees for Permit C.** Every applicant for a Permit C shall at the time of issuance of the permit by the board and annually thereafter pay to the board a permit fee of fifty dollars (\$50). The permit and fees shall be due January 1 and delinquent after January 31 of each year.

Every person required to renew a permit and who fails to do so by the delinquent date shall have the permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and submit payment of the regular fee of fifty dollars (\$50) and penalty of twenty-five dollars (\$25). After six months the person may reapply in the manner previously set by the board.

**(d) Fees for Permit C-1.** Every applicant for a Permit C-1 shall, at the time of issuance of the permit by the board, and each year subsequently, pay to the board a permit fee of fifty dollars (\$50). The permit and fees shall be due January 1 and delinquent after January 31 of each year.

Every person required to renew a permit, and who fails to do so by the delinquent date, shall have the permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for the delinquency and submit payment of the regular fifty dollar (\$50) fee and penalty of twenty-five dollars (\$25). After six months the person may reapply in the manner previously set by the board.

**(e) Fees for Permit C-2.** Every applicant for a Permit C-2 shall, at the time of issuance of the permit by the board, and each year subsequently, pay to the board a permit fee of one hundred dollars (\$100). The permit and fees shall be due January 1 and delinquent after January 31 of each year.

Every person required to renew a permit, and who fails to do so by the delinquent date, shall have the permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for the delinquency and submit payment of the regular fee of one hundred dollars (\$100) and a penalty of twenty-five dollars (\$25). After six months, the person may reapply in the manner previously set by the board.

**(f) Fees for Permit D.** Every applicant for a Permit D shall at the time of issuance of the permit by the board and annually thereafter pay to the board a permit fee of two hundred fifty dollars (\$250). The permit and fees shall be due January 1 and delinquent after January 31 of each year.

Every person required to renew a permit and who fails to do so by the delinquent date shall have the permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and submit payment of the regular fee of two hundred fifty dollars (\$250) and a penalty of fifty dollars (\$50). After six months the person may reapply in the manner previously set by the board.

**(g) Fees for Permit E.** Every applicant for a Permit E shall at the time of issuance of the permit by the board and annually thereafter pay a permit fee of fifty dollars (\$50). The permit fees shall be due on January 1 and delinquent after January 31 of each year.

Any person required to renew a permit and who fails to do so by the delinquent date shall have the permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and submit a payment of the regular fee and a penalty of twenty-five dollars (\$25). After six months the person may reapply in the manner previously set by the board.

**(h) Fees for Permit F and F-1.** Every applicant for a Permit F and F-1 shall at the time of issuance of the permit by the board and annually thereafter pay a permit fee of one hundred dollars (\$100). The permit fees shall be due July 1 and delinquent after July 31 of each year. Filling stations that are owned and operated by Class A or Class B-1 Permit holders are exempt from obtaining a Class F Permit.

Every person required to renew a permit and who fails to do so by the delinquent date shall have the permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and submit payment of the regular fee of one hundred dollars (\$100) and a penalty of fifty dollars (\$50). After six months the person may reapply in the manner previously set by the board. Class F and F-1 Permit holders shall keep records, report monthly sales of out-of-state motor fuel, and remit required fees by the twentieth of the month following the sales. Failure to make timely reports and pay required fees shall require interest and penalties to be assessed as described in Section 9-17-109.

**(i) In the event that an end user located within the State of Alabama purchases or obtains liquefied petroleum gas on which the LP-gas fees required by this article have not been paid,** the end user shall be required to report to the board the total gallons of any liquefied petroleum gas purchased during each period from October 1 to September 30 each year and shall pay to the board any fees that are due. All end users who purchase liquefied petroleum gas in unit quantities of 5,000 gallons or more shall furnish the board with written information concerning any purchases as may be requested by the board.

**(j) Any supplier who sells liquefied petroleum gas to any marketer or any end user in the state or who delivers or causes to be delivered liquefied petroleum gas to any point in the state,** shall report to the board all sales by the twentieth of the month following the month in which the sales are made. Each supplier shall add to each individual sales invoice an LP-gas fee not to exceed  $\frac{1}{2}$  of one cent per gallon. This fee shall be submitted to the board only once per

gallon. Each supplier shall remit to the board all LP-gas fees due with the required monthly reporting form provided by the board.

The board may lower or raise the LP-gas fee imposed by this article. At no time may the board raise the LP-gas fee imposed by this article above the rate of ½ of one cent per gallon.

**(k) Any permit holder who purchases, sells, or otherwise exchanges liquefied petroleum gas in the State of Alabama not otherwise covered under this article** shall report to the board the number of gallons purchased, sold, or exchanged by the twentieth of the month following the month such purchases, sales, or exchanges were made. The permit holder shall submit to the board any LP-gas fees due not to exceed ½ of one cent per gallon.

**(l) Class A, B, B-1, C, and D permit holders who are licensed by this board to install gas piping shall be exempt from the requirement of Section 40-12-84 if they only install gas piping.** (Acts 1965, No. 220, p. 305, § 7; Acts 1979, No. 79-435, p. 690, §1; Acts 1984, No. 84-293, p. 555, § 1; Acts 1986, No. 86-531, p. 1029, § 1; Acts 1989, No. 89-535, p. 1097, § 1; Acts 1994, No. 94-211, p. 283, § 2; Acts 1997, No. 97-685, § 1; Act 2004-87, p. 111, § 3; Act 2004-489, p. 916, § 1.)

**§ 9-17-107. Requirements as to storage capacity; exemption; submission of plans; construction requirements; fees.**

**(a)** The board shall require that every applicant for a Permit A have located within the State of Alabama a minimum of 30,000 (water gallon capacity) gallons storage capacity for liquefied petroleum gases. Class B-1 permit holders shall be required to have a minimum of 18,000 (water gallon capacity) gallons storage capacity of liquefied petroleum gas.

**(b)** If the required minimum storage consists of more than one container, then no storage container in any installation used to meet this requirement of the law shall be a size less than 6,000 gallon (water capacity) and the storage capacity required by this section of the law shall be within close proximity to the area serviced and used by the applicant to service his customers in the State of Alabama.

**(c)** The board shall require that such person shall submit plans for the proposed bulk storage facility to the office of the board and obtain approval by the administrator of such plans before construction is begun. All such facilities must be constructed according to rules and regulations of the board and the completed unit must have board approval before being used.

**(d)** If the holder of a Permit A or Permit B-1 submits plans to the board for a storage plant that shall remain his property even though the plant be at a customer's site or if the plant to be built is to be used as part of his own distribution system, then there will be no additional fees for approval and inspection of this facility; however, if this permit holder undertakes to install a bulk storage system of 5,000 gallons water capacity or more in single containers or in multi-container installation of an aggregate of 5,000 gallons water capacity, he must obtain approval for the location and for the plans from the administrator of the board before construction is begun. When plans for the bulk storage plant described above are submitted to the board for approval, a

fee of \$200.00 must be paid at the same time. This fee of \$200.00 will cover examination of the plans and one site inspection. An additional fee of \$50.00 for each inspection trip to the site, that is required, shall be paid to the board before final approval is given for the facility to be used. These fees may be changed by the board. (Acts 1965, No. 220, p. 305, § 8; Acts 1979, No. 79-435, p. 690, § 1; Acts 1989, No. 89-535, p. 1097, § 1; Acts 1992, No. 92-123, p. 213, § 3.)

**§ 9-17-108. Directive order of discontinuance; appeal; injunction; hearings by board; imposition of penalties.**

(a) Due to the inherent nature of liquefied petroleum gas which could cause a danger to the public or to a liquefied petroleum gas user, the board or the board administrator shall have the administrative authority to issue a written directive order requiring any person who violates any of the provisions of this article as amended from time to time or any rule or regulation promulgated by the board to discontinue the operation of any LP-Gas business or LP-Gas system immediately and prohibit such person from commencing operations until said violations have been corrected. When a written directive is issued by the board or the board administrator, it shall be immediately complied with by the recipient. When a directive order has been issued against a person, the recipient may, within five days, appeal to the circuit court of the county in which the said violations occurred. The circuit court shall within 10 days review such written directive and file a decision thereon and unless, by the authority of said court, the directive is revoked or modified, it shall remain in full force and be complied with within the time fixed in the said directive or by decision of the circuit court. Any person who feels himself aggrieved by the decision of the circuit court may, within the time provided by law after the issuance of the decision of the circuit court, file an appeal with the court of civil appeals to review such decision or judgment. Such parties as shall file an appeal shall file a bond in the amount fixed by the court or by law and unless said directive is revoked or modified by the court of civil appeals the directive shall be complied with in the time fixed by said directive or by decision of the court of civil appeals.

(b) Any person engaging in the state of Alabama in any of the businesses defined in section 9-17-105, without first having secured a permit as provided by section 9-17-105 or who shall have been convicted of a second or subsequent offense of violating any of the provisions of this article or any rule, order or regulation promulgated pursuant hereto may be enjoined from engaging in such business in the state of Alabama for a period of not less than one nor more than five years, and the board, through the district attorneys or attorney general, may institute such action in courts of competent jurisdiction of this state without the necessity of posting bond.

(c) The board is authorized to hold hearings, call witnesses, administer oaths, take testimony and obtain evidence in the conduct of its business. It is further authorized to impose monetary penalties and take such disciplinary actions as are authorized. (Acts 1965, No. 220, p. 305, § 10; Acts 1989, No. 89-535, p. 1097, § 1.)

**§ 9-17-109. Penalties for violations of provisions of article, rules, etc.; suitable records of transactions to determine amount of fees required; notice of assessment and hearing; filling of containers; notification of LP-gas dealer concerning service performed.**

(a) Any person violating this article or any rule, order, or regulation promulgated pursuant to this article shall, on conviction thereof, be fined not more than \$1,000 and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months. Every violation of this article or any rule, order, or regulation promulgated pursuant to this article shall constitute a separate offense.

(b) Every person subject to the fees imposed by Section 9-17-106 shall keep and preserve suitable records of all liquefied petroleum gas transactions subject to fees and any other books or accounts necessary to determine the amount of fees for which the person is liable under this article. Those records shall be retained for a period of not less than three years, and shall include the name and address of the seller and buyer, date of sale or purchase, amount of gallons purchased or sold, and the amount of fees collected or paid under Section 9-17-106. The board, the board administrator, or employees of the board may inspect, review, and copy or detain any original records, notes, or documents either written or electronically transcribed that are required to be kept by this article or that relate to the selling, purchasing, storing, transporting, installing, servicing, testing, inspecting, repairing, adjusting, and calibrating of LP-gas meters, containers, tanks, or systems. Those records, notes, or documents shall be turned over to the board at a location designated by the board within 24 hours of the notice or within a reasonable time in excess of 24 hours set by the board or board administrator in cases of hardship.

(1) If any person fails to report and remit fees required in Section 9-17-106, the board shall issue a written order by registered or certified mail to the person to report and remit those fees. If the person fails or refuses to make the report and remittance within 30 days following the order, the board shall make the report based upon any information it reasonably obtains, shall assess the fees due thereon, and shall add a penalty of 25 percent of the fees due, as assessed by the board, and interest at the rate of one and one-half percent per month, or fraction thereof, from the date the fees were originally due. If a good and sufficient reason is shown for the delinquency, the board may waive or remit the 25 percent penalty or a portion thereof.

(2) Any person who reports but fails to pay the fees levied in Section 9-17-106 within the time required by this article shall pay, in addition to the fees, a penalty of 10 percent of the amount of the fees due, together with interest thereon at the rate of one and one-half percent per month or fraction thereof from the date at which the fees levied in this section became due and payable. The penalty and interest shall be assessed and collected as part of the fee. The board, for good cause shown, may waive or remit the 10 percent penalty or any portion thereof.

(3) As soon as practicable after the report is filed, the board shall examine and ascertain the proper amount of the fee as shown by the report. Any excess shall be refunded to the person who filed the report or credited on any deficiency previously due. If the amount paid is deficient, as shown by the report, the board shall immediately notify the persons

of the deficiency and shall add a penalty of 10 percent of the amount due. If the deficiency is not paid within 30 days from the date of notice, interest shall accrue on the deficiency at the rate of one and one-half percent per month or fraction thereof, from the date the fee was due and shall be collected as part of the fee. The board, for good cause shown, may waive or remit the penalty or any portion thereof.

(4) When the board ascertains from examining and auditing the records of a person who collects the fee or from other information that the amount or amounts previously paid by the person for any period or periods is incorrect, the board shall compute the correct amount of fees due. If it appears that the amount paid is excessive, the excess shall be refunded or credited on any deficiency previously due by the person as required by this article. If it appears that the amount paid is deficient, the board shall notify the person, and shall demand payment. If payment is not paid within 15 days from date of demand, the board shall add a penalty of one and one-half percent per month from the date the fees, or any part thereof, becomes due. If the board finds a willful or fraudulent intent to evade the fees due, it may assess a penalty of 25 percent of the fees. The penalty shall be reviewable on appeal.

(c) When the board makes an assessment as provided in Section 9-17-106, the board shall notify the person by registered or certified mail of the amount of the assessment and shall notify the person to appear at a hearing of the board at the board office on a day named not less than 20 days from date of the notice to show cause why the assessment should not be final. The appearance may be by an agent or attorney. If no response is made on or before the date of the hearing, or if the response is not sufficient in the judgment of the board, the assessment shall be made final in the amount originally fixed or in any amount determined by the board to be correct. The board shall notify the person of the final assessment. A notice by the United States mail, addressed to the last known place of business, shall be sufficient.

Any person who has duly appeared and protested an assessment may appeal the final assessment of the board. A hearing on the appeal shall be held at a time and place designated by the board. No appeal shall lie in cases if the person has failed to appear and protest.

Any assessment made by the board shall be deemed correct, prima facie, on appeal.

**(d) Liquefied petroleum gas containers may be filled only by the owner or upon the owner's authorization.** The owner of a liquefied petroleum gas container is responsible for its suitability for continual service. Any person who fills or refills any LP-gas container or who, without authorization, turns any liquefied petroleum gas system on after it has been inspected, shut down, and condemned for safety violations, or operates an LP-gas motor vehicle, transport, or delivery unit that has been condemned for safety purposes or mechanical defects and red-tagged under authority of the Liquefied Petroleum Gas Board, or removes any red tag without authorization from the board administrator, or any person who authorizes an unqualified person to install or replace gas piping or install, connect, repair, or service any LP-gas equipment is guilty of a **Class B misdemeanor** as defined in Title 13A, and, upon conviction, shall be punished as provided by law.

(e) LP-gas dealers holding Class A or Class B-1 permits have special knowledge and expertise in performing installations, maintenance, repairs, adjustments, and services to liquefied

petroleum gas appliances, LP-gas systems, or any component thereof. To ensure the safety of Alabama's consumers of LP-gas services, any consumer who desires to install, repair, maintain, adjust, or service any liquefied petroleum gas appliance, LP-gas systems, or any component thereof shall notify the LP-gas dealer who regularly supplies such consumer with LP-gas of his or her intention to employ an individual other than the LP-gas dealer to perform such installation, maintenance, repair, adjustment, or service being performed. The consumer shall thereby afford the LP-gas dealer with an opportunity to first install, repair, maintain, adjust, or service the LP-appliance before resorting to an individual other than his or her LP-gas dealer who regularly supplies LP-gas.

(1) In the event the consumer suffers injury, damage, or loss as a proximate consequence of a negligent installation, repair, maintenance, adjustment or service of any LP-gas appliance, LP-gas system, or on any component thereof, and such consumer has not first notified and afforded the opportunity to install, repair, maintain, adjust, or service to the LP-gas dealer who regularly supplies his or her system with LP-gas, no legal action shall be commenced against such LP-gas dealer.

(2) In the event the consumer suffers injury, damage, or loss as a proximate consequence of the consumer using his or her equipment or appliance in a manner or for a purpose other than that for which the equipment or appliance was intended, no legal action shall be commenced against his or her LP-gas dealer.

(3) All LP-gas dealers are required to document and maintain in writing all notices received from consumers for a period of not less than five (5) years. Any LP-gas dealer who is found not to have maintained such notices in writing as required herein shall be guilty of a **Class B misdemeanor**.

(f) No LP-gas dealer shall be subject to any award of punitive or exemplary damages, except in those cases falling within Sections 6-5-391 and 6-5-410 except upon a showing by clear and convincing evidence of gross negligence or willful or wanton misconduct. (Acts 1965, No. 220, p. 305, § 9; Acts 1979, No. 79-435, p. 690, § 1; Acts 1984, No. 84-293, p. 555, § 1; Acts 1989, No. 89-535, p. 1097, § 1; Acts 1993, No. 93-632, p. 1079, § 3; Act 2006-246, p. 444, § 1.)

#### **§ 9-17-110. Creation of Liquefied Petroleum Gas Research and Education Advisory Committee.**

(a) The Liquefied Petroleum Gas Research and Education Advisory Committee is created. The committee shall consist of five members as follows: Two members shall be industrial members of the LP-Gas Board appointed by the board chair; two members shall be either a dealer or a dealer's manager who is a member of the Alabama Propane Gas Association appointed by the association's Board of Directors; the fifth member shall be the Chair of the LP-Gas Board who shall serve as chair of the committee. The board administrator shall serve as the executive director of the committee.

**(b)** The term of office of the appointed committee members shall be one year. Members may serve successive terms. Appointed members of the committee shall take office on the date of the July board meeting each year.

**(c)** No member of the committee shall receive per diem or expense allowance.

**(d)** The committee may adopt all necessary rules relating to research and education of the public as well as industrial members and employees regarding the use of LP-gas.

**(e)** No single corporation or partnership comprised of separate entities within the state, whether or not separately licensed, may be represented on the committee by more than one representative at any one time.

**(f)** The Liquefied Petroleum Gas Research and Education Fund may be used by the committee and administered by the LP-Gas Board administrator to pay for activities relating to LP-gas, including the following direct and indirect costs:

**(1)** Research of all possible uses of LP-gas to enhance air quality.

**(2)** Research, development, and implementation of marketing, advertising, and informational programs relating to LP-gas to make LP-gas more understandable and readily available to consumers.

**(3)** Development of conservation and distribution plans to minimize the frequency and severity of disruptions in the supply of LP-gas.

**(4)** Development of a public information plan to provide advisory services relating to LP-gas to consumers.

**(5)** Development of voluntary participation plans to promote the use of LP-gas by federal, state, and local agencies.

**(6)** Development and administration of educational programs relating to LP-gas safety, research, and other related programs directed towards the consumer, industrial members, and employees.

**(7)** Other functions the committee determines are necessary to add to a program established by the committee for the purpose of promoting the use of LP-gas.

**(8)** The administrative costs incurred by the committee under this section.

**(9)** The making of grants, contracts, and appropriations as approved by the committee to fund comprehensive LP-gas research and education programs, seminars, and workshops and for providing rebates for the purpose of promoting the use of LP-gas. (Acts 1965, No. 220, p. 305, § 11; Acts 1979, No. 79-435, p. 690, § 1; Acts 1993, No. 93-632, p. 1079, § 3; Acts 1997, No. 97-685, p. 1361, § 1.)

## **Section 2**

### **LP-Gas Room Heaters.**

#### **§ 9-17-120. Definitions.**

For the purposes of this article, the following words shall have the following meanings:

- (1) **LP-GAS.** Liquefied petroleum gas as defined in Section 9-17-100.
- (2) **USED MANUFACTURED HOME.** A manufactured home which is not being sold or offered for sale as new, and is used for residential purposes. (Acts 1994, No. 94-706, p. 1369, § 1; Acts 1995, No. 95-146, p. 208, § 1.)

#### **§ 9-17-121. Installation of heaters—residences.**

**The following LP-Gas room heaters may be installed in a residence that is a one or two-family dwelling and that is not a manufactured home (mobile home) or a modular home as provided in this section:**

- (1) One listed **wall-mounted** LP-Gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bathroom of a residential one- or two-family dwelling provided that the input rating shall not exceed 6000 BTU per hour and combustion and ventilation air is provided in accordance with the National Fuel Gas Code, NFPA 54, as adopted by the board.
- (2) One listed **wall-mounted** LP-Gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bedroom of a residential one- or two-family dwelling provided that the input rating shall not exceed 10,000 BTU per hour and combustion and ventilation air is provided as specified in the National Fuel Gas Code, NFPA 54, as adopted by the board. (Acts 1994, No. 94-706, p. 1369, § 2.)

#### **§ 9-17-122. Installation of heaters—used manufactured homes.**

**The following LP-Gas room heaters may be installed in a used manufactured home as follows:**

LP-Gas listed vented room heaters equipped with a 100 percent safety pilot and a vent spill switch or LP-Gas listed unvented room heaters equipped with factory equipped oxygen depletion safety shut-off systems may be installed in a used stationary manufactured home (mobile home) but not in sleeping quarters or bathrooms in the manufactured home (mobile home) when the installation of the heater is not prohibited by the appliance manufacturer and when the input rating of the room heater does not exceed 20 BTU per hour per cubic foot of space and combustion and ventilation air is provided as specified in the National Fuel Gas Code, NFPA 54 as adopted by the board. All room heaters installed pursuant to this section shall be securely anchored to the wall or floor. (Acts 1994, No. 94-706, p. 1369, § 3.)

**§ 9-17-123. Enforcement.** This article shall be enforced by the Liquefied Petroleum Gas Board. (Acts 1994, No. 94-706, p. 1369, § 4.)

**§ 9-17-124. Reference to National Fuel Gas Code.** Any reference to the National Fuel Gas Code, NFPA 54, shall include any future changes to the code when adopted by the Liquefied Petroleum Gas Board. (Acts 1994, No. 94-706, p. 1369, § 5.)

**§ 9-17-125. Preemption of local law.** This article shall preempt any local law or any ordinance or authority of any local governing body to regulate the subject matter of this article and no local law or ordinance or authority of any local governing body shall supersede this article. (Acts 1994, No. 94-706, p. 1369, § 6.)

### **Section 3**

## **Liquefied Petroleum Gas Fuel Tax**

**§ 40-17-160. Flat fee on vehicles using liquefied petroleum gas or natural gas as fuel.**

In lieu of an excise tax on liquefied petroleum gas and natural gas used to propel motor vehicles over the highways of this state, there is hereby levied an annual flat fee on the following classes of vehicles which require a motor vehicle license using liquefied petroleum gas or natural gas as fuel. For all other purposes other than the excise tax, the terms “liquefied petroleum gas” and “natural gas” shall be included with the term gasoline as defined in Section 40-17-30:

- Class 1. Passenger automobiles, vans, and trucks and pickups under one ton .....\$ 75.00**
- Class 2. Recreational vehicles and vans and trucks one ton or over but with a rear axle carrying capacity of less than 14,000 pounds..... \$ 85.00**
- Class 3. Bobtail trucks and equivalent vehicles to be defined as any other vehicle having the capacity of carrying a loaded rear axle weight of 14,000 pounds or more..... \$150.00**
- Class 4. Tractor/trailer units.....\$175.00**

(Acts 1980, No. 80-739, p. 1503, § 1; Acts 1981, 3rd Ex. Sess., No. 81-1136, p. 409, § 1.)

**§ 40-17-161. Annual decal from Liquefied Petroleum Gas Board; reduced fee for vehicles acquired, etc., after September 30 and after December 31; ten-day application period after conversion; display of decal indicating use of liquefied petroleum gas as fuel; penalties.**

(a) Every person owning and/or operating such vehicles shall make application for and obtain an annual decal from the Liquefied Petroleum Gas Board which shall serve as an identification marker that said flat fee has been paid. Each decal issued by the Liquefied Petroleum Gas Board shall not exceed a cost of five dollars (\$5). The decal shall be in such form and of such size as the Liquefied Petroleum Gas Board shall prescribe. Such decal shall be attached or affixed to the vehicle in the place and manner prescribed by the Liquefied Petroleum Gas Board. The decals provided for in this chapter shall be issued for a term that shall begin at April 1 of each year and expire on March 31 of the following year. If any passenger automobile or truck is acquired, liquefied petroleum gas or natural gas system installed or vehicle put in operation after September 30 the fee shall be one-half the flat fee stated in Section 40-17-160, or after December 31, the fee shall be one-fourth of the flat fee stated in Section 40-17-160. Owners of all newly converted vehicles must apply for the required decal as provided for in Section 40-17-160 within 10 days of the completion date in which the liquefied petroleum or natural gas system was installed on the vehicle. Failure to submit an application within the 10-day period requires the payment of penalties as prescribed by Section 40-17-164.

(b) In order to easily identify vehicles using liquefied petroleum gas as a motor fuel to police, fire and rescue members, a decal reading "Powered by Liquefied Petroleum Gas" shall be prominently displayed on the rear of any vehicle using liquefied petroleum gas as a motor fuel. The decal colors shall be blue with a white background with the letters no smaller than one inch in size. Provided, however, that such decal shall not be required on liquefied petroleum gas bobtail delivery units.

(c) The board administrator and the board inspectors shall have the power and authority to issue a uniform nontraffic citation to any person violating the provisions of this section. For the purpose of enforcing this section, there shall be prima facie evidence that a connected, operational liquefied petroleum gas carburetion system, which is part of a dual or switchable gasoline-liquefied petroleum gas system, has been in use, if there is liquefied petroleum gas in the liquefied petroleum gas tank. Any violation of the provisions of this section shall constitute a **Class B misdemeanor** as defined in Title 13A, and shall be punished as provided by law. (Acts 1980, No. 80-739, p. 1503, § 2; Acts 1981, 3rd Ex. Sess., No. 81-1136, p. 409, § 1.)

**§ 40-17-162. Remittance of flat fee and cost of decal; disposition of proceeds.**

Every person required to make application for and receive a decal under this chapter shall at the time of making said application remit to the Liquefied Petroleum Gas Board the total amount of the flat fee due plus the cost of the decal issued. The proceeds of the flat fee shall be deposited by the Liquefied Petroleum Gas Board in the State Treasury to the credit of the Public Road and Bridge Fund. The proceeds of the decal issuance fee shall be deposited in the State Treasury to the credit of the Liquefied Petroleum Gas Board Fund. Any administration costs relating to such decals shall be paid by the Liquefied Petroleum Gas Board from such fees

collected. Said costs are hereby appropriated from the Liquefied Petroleum Gas Board Fund. (Acts 1980, No. 80-739, p. 1503, § 3.)

**§ 40-17-163. Rules and regulations.**

The Liquefied Petroleum Gas Board is authorized to promulgate any rules and regulations necessary to carry out the provisions of this chapter. (Acts 1980, No. 80-739, p. 1503, § 4.)

**§ 40-17-164. Penalty for failure to timely obtain decal; disposition of penalty.**

Any person who fails to obtain a current decal within 30 days of the date said decal is required as provided in this chapter, shall be liable for a penalty of 20 percent of the fee in addition to the fee. Said penalty shall be paid at the same time and in the same manner as the flat fee; and such penalty shall be deposited by the Liquefied Petroleum Gas Board in the State Treasury, to the credit of the Liquefied Petroleum Gas Board Fund. (Acts 1980, No. 80-739, p. 1503, § 5.)

**§ 40-17-165. Tax on out-of-state vehicles; remittance; purchase of decals for out-of-state vehicles.**

If an out-of-state vehicle comes to a propane or natural gas dealer or supplier in the State of Alabama to purchase fuel, the dealer must collect in lieu of any fees levied by this chapter an amount equal to the current Alabama motor fuel tax in effect as prescribed by Section 40-17-325 and remit these funds to the Alabama LP-gas board before the 20th of the following month after the date of the sale. Decals for out-of-state vehicles can be purchased with decal fees and issuance fees to be paid as prescribed by Sections 40-17-160 and 40-17-161. (Acts 1980, No. 80-739, p. 1503, § 6; Acts 1981, 3rd Ex. Sess., No. 81-1136, p. 409, § 1.)

**§ 40-17-166. Exemption of certain vehicles from excise tax.**

Any vehicles of the classes described in Section 40-17-160 owned by the state, county, or any incorporated municipality or agency, or instrumentality thereof, or any vehicle not requiring a license plate or motor vehicle license, including but not limited to forklift trucks and agricultural vehicles, shall be exempt from any excise tax levied by the provisions of this chapter. (Acts 1980, No. 80-739, p. 1503, § 7; Acts 1981, 3rd Ex. Sess., No. 81-1136, p. 409, § 1.)

**§ 40-17-167 Decal requirement suspended.**

(a) The Legislature of Alabama makes the following findings and statements:

- (1) The reduction of the dependence on foreign oil is necessary to reserve and protect our national security.
- (2) Reliable and affordable energy is of great importance to all sectors of Alabama's economy.

- (3) Long-term sustainability of energy supply and efficient and effective distribution of energy is becoming increasingly important to Alabama's population growth and economic expansion.
  - (4) The future energy needs of the state also present opportunities to diversify the state's energy supply and provide new opportunities for Alabama-based clean energy technologies.
  - (5) The use of existing technology and development of new technologies including compressed and liquefied natural gas should be encouraged as a way of producing energy with reduced emissions.
- (b) The Legislature recognizes that it is in the best interest of its citizens to remove existing barriers to implementing natural gas distribution for motor vehicles until such time as a comprehensive approach is established for regulating and taxing natural gas for motor vehicles. This includes temporarily eliminating the decals and associated fees that are currently required of owners or operators of motor vehicles using compressed and liquefied natural gas, as well as temporarily suspending any motor fuel excise taxes due on compressed or liquefied natural gas used as fuel for vehicles.
- (c)
- (1) The requirement to obtain a decal from the Liquefied Petroleum Gas Board, as well as the requirement to collect the motor fuel tax as prescribed in this article, are hereby suspended from April 9, 2014, until October 1, 2016.
  - (2) In the event that no comprehensive approach for regulating and taxing natural gas used as fuel for motor vehicles has been established by October 1, 2016, beginning on that date each 5.66 pounds of compressed natural gas that is taxable as motor fuel shall be taxed as one gallon of gasoline, and each 6.06 pounds of liquefied natural gas that is taxable as motor fuel shall be taxed as one gallon of diesel fuel. Provided, however, that if the National Conference for Weights and Measures establishes standards for converting compressed natural gas to a gallon of gasoline and for converting liquefied natural gas to a gallon of diesel fuel, such standard conversions shall be used.
  - (3) Compressed natural gas and liquefied natural gas may be sold in gallon equivalents as established in subdivision (2) until October 1, 2016. In the event that no comprehensive approach for regulating and taxing natural gas used as fuel for motor vehicles has been established at that time, compressed natural gas and liquefied natural gas shall be sold in gallon equivalents as established in subdivision (2).
  - (4) This section shall not apply to the remainder of this article. (Act 2014-408, §§ 1,2.)

## **History**

### **Effective date:**

The act which added this section is effective April 9, 2014.