

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
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As Engrossed: H2/19/15 H2/26/15
A Bill

HOUSE BILL 1281

By: Representatives Richey, Baltz, Cozart, Jean, Lowery, Rushing, Vines

For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS PROPANE COUNCIL FOR THE PROMOTION OF THE PROPANE INDUSTRY IN ARKANSAS; TO PRESCRIBE MEMBERSHIP AND POWERS OF THE COUNCIL; TO PROVIDE FOR AN ASSESSMENT ON ODORIZED PROPANE SOLD SUBJECT TO APPROVAL BY REFERENDUM ON PROPANE PRODUCERS AND MARKETERS VOTING IN REFERENDUM; TO PROVIDE FOR HOLDING OF THE REFERENDUM; TO PROVIDE FOR THE COLLECTION AND ADMINISTRATION OF THE ASSESSMENT SHOULD THE ASSESSMENT BE APPROVED; TO PROVIDE FOR REFUNDS, PENALTIES, AND THE DURATION OF THE ASSESSMENT; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE ARKANSAS PROPANE COUNCIL FOR THE PROMOTION OF THE PROPANE INDUSTRY IN ARKANSAS; AND TO CREATE A REFERENDUM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 15, Chapter 75, is amended to add an additional subchapter to read as follows:

Subchapter 5 – Arkansas Propane Council

15-75-501. Purpose.

The purpose of this subchapter is to promote the growth and development of the propane industry in Arkansas by research, promotion, and market development and thereby promote the general welfare of the people of



Arkansas.15-75-502. Arkansas Propane Council – Creation – Membership.

(a)(1) The Arkansas Propane Council is created to be domiciled in Arkansas, to be composed of seven (7) members to be appointed by the Governor as follows:

(A) Three (3) members representing propane retail dealers in Arkansas who are holders of Liquefied Petroleum Gas Board class one permits;

(B) Two (2) members representing Arkansas wholesale dealers or importers of propane who are holders of Liquefied Petroleum Gas Board class five or class eight permits, or both;

(C) One (1) member representing propane suppliers and marketers of propane equipment who is a holder of a Liquefied Petroleum Gas Board class nine permit; and

(D) One (1) member active in Arkansas in the propane industry in general, who shall be appointed from the state at large.

(2) Each member of the council shall be appointed from a list of potential members submitted to the Governor by the Board of Directors of the Arkansas Propane Gas Association, Inc., under subsection (b) of this section.

(b)(1) Within ten (10) days after the effective date of this act, the Arkansas Propane Gas Association, Inc., shall submit to the Governor a list of names of two (2) persons for each of the positions on the council as nominations and from which the Governor shall make the appointments.

(2) Initial terms for the members of the council who hold class one permits and members who hold class five or class eight permits, or both, shall be determined by lot with:

(A) One (1) member who holds a Liquefied Petroleum Gas Board class one permit having an initial term of one (1) year;

(B) One (1) member who holds a Liquefied Petroleum Gas Board class one permit having an initial term of two (2) years;

(C) One (1) member who holds a Liquefied Petroleum Gas Board class one permit having an initial term of three (3) years;

(D) One (1) member who holds a Liquefied Petroleum Gas Board class five or class eight permit, or both having an initial term of one (1) year; and

(E) One (1) member who holds a Liquefied Petroleum Gas Board class five or class eight permit, or both, having an initial term of two (2) years.

(3) The initial term for the council member who holds a Liquefied Petroleum Gas Board class nine permit shall be three (3) years.

(4) The initial term for the council member representing the propane industry in general shall be three (3) years.

(5) After the initial term, each member selected shall serve a term of three (3) years and until his or her successor is selected.

(6)(A) Each year after the terms created under this section and not less than thirty (30) days before the expiration of the term, the represented organization shall submit to the Governor two (2) nominees for each position to be filled on the council from the represented organization.

(B) The Governor shall appoint a succeeding member to the council from a list of two (2) nominees submitted by the represented organization.

(7) If a vacancy occurs in an appointed position, the vacancy shall be filled by the Governor for the unexpired term by an appointment made in the same manner as the original appointment.

(c)(1) The members of the council shall meet immediately after their appointment.

(2) At the initial meeting, the members shall:

(A) Organize the council; and

(B) Elect from the membership of the council a chair, a vice chair, and a secretary-treasurer.

(3) The members of the council shall assign to the chair, the vice-chair, and the secretary-treasurer either:

(A) The duties customarily exercised by such officers; or

(B) Duties specifically designated by the council.

(4) The council may adopt rules for its own government and for the administration of the affairs of the council.

15-75-503. Arkansas Propane Council – Duties.

(a) The Arkansas Propane Council shall plan and conduct or cause to be conducted a program of promotion, market development, research, and related propane activities designed to enhance the propane industry in Arkansas.

(b) The council may use only the funds derived from the assessment imposed under this subchapter for purposes of this section, including basic administration expenses for the plan or programs developed through the plan.

15-75-504. Referendum election.

(a) Within ninety (90) days after the effective date of this act, the Arkansas Propane Council shall cause an election to be held on the question of the levy of an assessment of four-tenths (0.4) of one cent (1¢) per gallon of odorized propane imported into Arkansas or produced in Arkansas to be sold for any purpose in the state.

(b) The council shall:

(1) Establish places throughout the state at which the election shall be held;

(2) Set the date for conducting the election in each county;

(3) Furnish ballots for the election; and

(4) Prescribe voting procedures for the election.

(c) Each holder of a Liquefied Petroleum Gas Board class one, class three, class five, or class eight permit for the sale of propane in Arkansas shall be eligible to vote in the election.

(d)(1) If a majority of the eligible voters vote for the levy of an assessment of four-tenths (0.4) of one cent (1¢) per gallon of odorized propane imported into Arkansas to be sold for any reason in the state, the assessment shall apply to all propane sales made on and after a date specified by the council.

(2) The council shall establish an applicability date under subdivision (d)(1) of this section not later than ninety (90) days after certification of the results of the election.

(3) The assessment under this section shall be a continuing levy until either:

(A) Terminated by the council; or

(B) Another election is held at which a majority of the eligible voters vote against the levy.

(e)(1) When a petition containing the signatures of twenty-five percent (25%) of the holders of Liquefied Petroleum Gas Board permits is filed with the council requesting that the question of continuing the assessment of four-tenths (0.4) of one cent (1¢) per gallon on odorized

propane imported into Arkansas or produced in Arkansas to be sold in Arkansas for any reason be submitted to a vote, the council shall cause an election on the question to be held within ninety (90) days after the filing of a petition.

(2) The election shall be conducted in the same manner as the initial election held on the question of the levy of the assessment.

(3) If a majority of the eligible voters voting at the election vote against the levy of the assessment, the assessment shall not be levied unless the levy is approved at a subsequent election called by the council.

15-75-505. Owner and seller responsibilities.

(a)(1) The owner or seller of propane at the time of odorization, whether within or without the state, or at the time of import or manufacture of odorized propane within or into Arkansas shall make the assessment required under § 15-75-504 based upon the volume in gallons of odorized propane placed into commerce in Arkansas, whether or not the owner or seller is located in Arkansas or is a resident of Arkansas.

(2) On or before the twentieth day of the month next following the time of odorization or the time of import or manufacture of odorized propane, an owner or seller of propane shall file:

(A) A report with the Director of the Department of Finance and Administration; and

(B) Remit to the director the assessments collected under this subchapter in the manner and on forms prescribed by the director.

(b) If a conflict arises as to the person that shall make the assessment, the owner of the propane at the time of odorization of the propane imported into Arkansas or manufactured in Arkansas and placed into commerce in Arkansas shall make the assessment.

(c) Propane stored outside Arkansas and ultimately sold in or used or placed into commerce in Arkansas is subject to this subchapter.

15-75-506. Director of the Department of Finance and Administration – Rules.

The Director of the Department of Finance and Administration may adopt rules:

(1) Regarding records to be kept by propane sellers concerning

reporting and remittance of the assessment levied under this subchapter;
(2) Prescribing forms upon which the reports are to be made;
(3) Requiring the reports to contain such information as the
director considers necessary to assure the proper enforcement of this
subchapter; and
(4) Establishing the efficient collection of the assessment
levied under this subchapter.

15-75-507. Administration generally.

The Arkansas Tax Procedure Act, § 26-18-101 et seq., applies to the
assessment levied under this subchapter and to the reporting, remitting, and
enforcement of the assessments.

15-75-508. Assessments and penalties – Deposit.

(a) The Director of the Department of Finance and Administration shall
deposit all assessments and penalties collected under this subchapter into
the State Treasury as special revenues.

(b) The Treasurer of State shall credit the remaining assessments and
penalties collected under this subchapter to the Arkansas Propane Council
Fund after deducting:

(1) One percent (1%) of the assessments and penalties for credit
to the Constitutional Officers Fund; and

(2)(A) Two and two tenths percent (2.2%) of the assessments and
penalties for credit to the State Central Services Fund.

(B) The amount deducted under subdivision (b)(2)(A) of
this section is subject to adjustment by the Chief Fiscal Officer of the
State in accordance with current existing law.

15-75-510. Transportation of odorized propane.

(a) Odorized propane transported into Arkansas and ultimately used or
consumed in Arkansas by any means or for any purpose in Arkansas is subject
to this subchapter, including odorized propane transported into Arkansas:

(1) By rail, pipeline, over-the-road-long-haul truck transport,
or retail truck for delivery without being stored; or

(2) By truck transport and contained in a prefilled cylinder.

(b) Odorized propane transported across Arkansas and not stored, used,

consumed, or placed into commerce in Arkansas is exempt from this subchapter.

15-75-511. Pricing – Antitrust pass-through prohibited.

The price of propane shall be determined by market forces consistent with antitrust laws, and this subchapter does not allow a pass-through to consumers at any level of the assessment determined by the Arkansas Propane Council under this subchapter.

SECTION 2. Arkansas Code Title 19, Chapter 6, Subchapter 8, is amended to add an additional section to read as follows:

19-6-829. Arkansas Propane Council Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Arkansas Propane Council Fund”.

(b)(1) Except as provided under § 15-75-508, moneys collected under § 15-75-501 et seq. shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund shall also consist of any other revenues authorized by law.

(c) The fund shall be used by the Arkansas Propane Council for purposes established in § 15-75-501 et seq.

SECTION 3. Arkansas Code § 19-6-301, concerning the enumeration of special revenues, is amended to add an additional subdivision to read as follows:

(253) That portion of assessments and penalties collected under § 15-75-501 et seq. as provided under § 15-75-508.

/s/Richey