CHAPTER 82

Liquid Petroleum Gas

**SECTION 40‑82‑5.** Applicability and conflicts with Article 1, Chapter 1, Title 40.

 Unless otherwise provided for in this chapter, Article 1, Chapter 1 of Title 40 applies to the Liquid Petroleum Gas Board and licensees regulated under this chapter. If there is a conflict between this chapter and Article 1, Chapter 1 of Title 40, the provisions of this chapter control.

HISTORY: 1999 Act No. 128, Section 1.

**SECTION 40‑82‑10.** Board creation, composition, terms, meetings and affirmative vote requirements.

 (A) There is created the Liquefied Petroleum Gas Board composed of seven members appointed by the Governor. One appointee must be a fireman, two must be liquefied petroleum gas dealers licensed under this chapter, one must be licensed under this chapter in any other classification, one must be a representative of the insurance industry, and two must be members of the public who do not possess a pecuniary interest in an entity engaged in a business directly involving liquefied petroleum gas. Board members from the general public may be nominated by an individual, group, or association and must be appointed by the Governor in accordance with Section 40‑1‑45.

 (B) The chairman must be elected for a one‑year term. Terms of office for members are for two years and until their successors are appointed and qualify. Vacancies must be filled in the manner of original appointment for the unexpired term. The board shall meet at least annually and not more than once a month. All meetings must be scheduled at the call of the chairman. All members shall receive mileage, per diem, and subsistence as provided by law for members of boards, committees, and commissions for days on which they transact official business, to be paid from the General Fund of the State. The department’s Office of State Fire Marshal shall provide administrative support as required by the board to perform its prescribed functions. The State Fire Marshal is an official consultant and is authorized to attend all meetings.

 (C) No action may be taken by the board except upon the affirmative vote of four members.

HISTORY: 1999 Act No. 128, Section 1.

CROSS REFERENCES

Liquefied Petroleum Gas Board regulations, see S.C. Code of Regulations R. 71‑8304.

State Fire Marshal enforcement of regulations of Liquefied Petroleum Gas Board, see Section 23‑9‑20.

Library References

Gas 1, 2, 10.

Westlaw Topic No. 190.

C.J.S. Gas Sections 1, 5 to 13, 15 to 20.

**SECTION 40‑82‑20.** Definitions.

 As used in this chapter:

 (1) “Containers” means all vessels including, but not limited to, tanks, cylinders, or pressure vessels used for storage of liquefied petroleum gases.

 (2) “Contractor” means a person or company engaging in the installation, servicing, repairing, adjusting, disconnecting or connecting piping to bulk storage tanks, pumps, compressors and equipment for gas systems.

 (3) “Cylinder exchange company” means a business which provides filled liquefied petroleum gas cylinders for purchase or exchange.

 (4) “Dealer” means a person engaging in the installation of liquefied petroleum gas systems or in the manufacture, distribution, sale, storing, or transporting by tank truck, tank trailer, or container of liquefied petroleum gases or engaging in installing, servicing, repairing, adjusting, disconnecting, or connecting appliances to liquefied petroleum gas systems and containers.

 (5) “Installer of appliances and equipment” means a person engaging in the business of installing, servicing, repairing, adjusting, disconnecting, or connecting appliances and equipment to liquefied petroleum gas systems or containers.

 (6) “Liquefied petroleum gas” means material composed predominately of hydrocarbons or mixtures of hydrocarbons, including propane, propylene, butanes (normal butane or isobutane), and butylenes.

 (7) “Reseller” means a person engaging in the resale of liquefied petroleum gas by filling cylinders of not more than one hundred pounds capacity of liquefied petroleum gas and who owns and operates this business separate and independent of a dealer except that the reseller may purchase liquefied petroleum gas from a dealer as an independent contractor.

 (8) “Systems” means an assembly of equipment consisting of the container and any device which is connected to the container for the utilization of liquefied petroleum gas.

 (9) “Transporter” means a person engaging in the transportation of liquefied petroleum gas for hire only in quantities greater than three thousand five hundred water gallons from pipeline terminals to bulk plants.

 (10) “Utility gas plant” means a fuel gas distribution facility owned or operated by a public utility or municipal or local government authority that uses liquefied petroleum gas to supplement natural gas supplies when necessary.

HISTORY: 1999 Act No. 128, Section 1.

CROSS REFERENCES

Facility defined, Underground Facility Damage Prevention Act, see Section 58‑36‑20.

**SECTION 40‑82‑30.** Unlawful acts without license; exemption.

 It is unlawful for a person to engage in the manufacture, distribution, sale, storage, or transportation by tank truck, tank trailer, or cylinder of liquefied petroleum gases or engage in the installation, servicing, repairing, adjusting, or connecting of appliances to liquefied petroleum gas systems and containers in this State without being licensed in accordance with this chapter. A retail establishment which sells prefilled liquefied petroleum gas cylinders of twenty‑five pounds or less is exempt from the requirements of this chapter.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10.

Westlaw Topic No. 190.

C.J.S. Gas Section 20.

**SECTION 40‑82‑50.** Department to provide administrative and other support of board operations and activities.

 The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board in accordance with Section 40‑1‑50.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 1, 2, 10.

Westlaw Topic No. 190.

C.J.S. Gas Sections 1, 5 to 13, 15 to 20.

**SECTION 40‑82‑60.** Rules and regulations.

 The board may adopt rules governing its proceedings and internal operations and may promulgate regulations to enforce, administer, and implement this chapter.

HISTORY: 1999 Act No. 128, Section 1.

CROSS REFERENCES

Liquefied Petroleum Gas Board regulations, see S.C. Code of Regulations R. 71‑8304.

State Fire Marshal enforcement of regulations of Liquefied Petroleum Gas Board, see Section 23‑9‑20.

Library References

Gas 10.

Westlaw Topic No. 190.

C.J.S. Gas Section 20.

**SECTION 40‑82‑70.** Board powers and duties.

 (A) The board shall:

 (1) ensure that the laws of this State governing liquefied petroleum gas are executed faithfully;

 (2) institute proceedings for violations of laws relevant to liquefied petroleum gas;

 (3) promulgate and enforce regulations setting forth minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck or tank trailer, and utilizing liquefied petroleum gases and specifying the odorization and degree of odorization of these gases. The regulations must be reasonably necessary for the protection of the health, welfare, and safety of the public and persons using these materials and must be in substantial conformity with the generally accepted standards of safety concerning liquid petroleum gas. The regulations must contain standards not less than those published by the National Fire Protection Association Pamphlet No. 54, National Fire Protection Association Pamphlet No. 58, with the exception of Section 4‑2.2.1, 1992 Edition, and National Fire Protection Association Pamphlet No. 59 1992 Edition. The regulations must be adjusted to reflect revisions by the National Fire Protection Association.

 (B) In addition to the powers and duties provided in this chapter, the board has those powers and duties set forth in Section 40‑1‑70.

HISTORY: 1999 Act No. 128, Section 1.

CROSS REFERENCES

Fire prevention and life safety, see S.C. Code of Regulations R. 71‑8300.

Liquefied petroleum (LP) gas, see S.C. Code of Regulations R. 71‑8304.

Library References

Gas 10.

Westlaw Topic No. 190.

C.J.S. Gas Section 20.

**SECTION 40‑82‑80.** Investigating complaints and violations; inspections; compelling attendance of witnesses.

 (A) The Department of Labor, Licensing and Regulation shall investigate complaints and violations of this chapter as provided for in Section 40‑1‑80.

 (B) The State Fire Marshal or any of his agents may enter during reasonable business hours the premises of a person engaged in the liquefied petroleum gas industry in any of its phases to inspect properties or installations that relate in any way to the safe and proper operation of the business and may make investigations or examinations they consider necessary. When an emergency exists, as declared by the Office of State Fire Marshal, the inspector may enter the premises of a person and take necessary action for public safety including, but not limited to, the evacuation of the area in which the emergency exists.

 (C) The board may compel the attendance of witnesses to testify in relation to a matter within its jurisdiction.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10, 11, 22, 23.

Westlaw Topic No. 190.

C.J.S. Gas Sections 4, 20, 59.

**SECTION 40‑82‑90.** Investigation results and hearings.

 The results of an investigation must be presented to the board, and any subsequent hearing must be conducted in accordance with Section 40‑1‑90.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10, 11, 21.

Westlaw Topic No. 190.

C.J.S. Gas Sections 20, 156 to 158.

**SECTION 40‑82‑100.** Cease and desist orders; petitioning for equitable relief.

 In addition to other remedies provided for in this chapter or Chapter 1, the board in accordance with Section 40‑1‑100 may issue a cease and desist order or may petition an administrative law judge for a temporary restraining order or other equitable relief to enjoin a violation of this chapter.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10, 22, 23.

Injunction 89(5).

Westlaw Topic Nos. 190, 212.

C.J.S. Gas Sections 4, 20, 59.

C.J.S. Injunctions Sections 242 to 243, 245 to 247.

**SECTION 40‑82‑115.** Board jurisdiction.

 The board has jurisdiction over the actions of licensees and former licensees as provided for in Section 40‑1‑115.

HISTORY: 1999 Act No. 128, Section 1.

**SECTION 40‑82‑120.** Violations and disciplinary actions.

 In addition to the sanctions the board may impose against a person pursuant to this chapter and Section 40‑1‑120, the board may take disciplinary action against a person if:

 (1) a condition is found as a result of the inspection, examination, or investigation provided in Section 40‑82‑80 that is hazardous to the public safety;

 (2) a condition is found in violation of other laws or regulations applicable to the liquefied petroleum gas industry;

 (3) there is a violation of the South Carolina Container Law, as provided for in Regulation 19‑304.4.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10, 22, 23.

Westlaw Topic No. 190.

C.J.S. Gas Sections 4, 20, 59.

**SECTION 40‑82‑130.** Licensure denials.

 The board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10.

Westlaw Topic No. 190.

C.J.S. Gas Section 20.

**SECTION 40‑82‑140.** Prior criminal record as ground for denying license.

 A license may be denied based on a person’s prior criminal record only as provided for in Section 40‑1‑140.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10.

Westlaw Topic No. 190.

C.J.S. Gas Section 20.

**SECTION 40‑82‑150.** Voluntary surrender of license.

 A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the license in accordance with Section 40‑1‑150.

HISTORY: 1999 Act No. 128, Section 1.

**SECTION 40‑82‑160.** Appeal.

 A person aggrieved by a final action of the board may seek review of the decision in accordance with Section 40‑1‑160.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10, 22, 23.

Westlaw Topic No. 190.

C.J.S. Gas Sections 4, 20, 59.

**SECTION 40‑82‑170.** Costs of investigation and prosecution.

 A person found in violation of this chapter or a regulation promulgated under this chapter may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40‑1‑170.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10, 22, 23.

Westlaw Topic No. 190.

C.J.S. Gas Sections 4, 20, 59.

**SECTION 40‑82‑180.** Collection and enforcement regarding costs and fines.

 All costs and fines imposed pursuant to this chapter must be paid in accordance with, and are subject to, the collection and enforcement provisions of Section 40‑1‑180.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10, 22, 23.

Westlaw Topic No. 190.

C.J.S. Gas Sections 4, 20, 59.

**SECTION 40‑82‑190.** Confidentiality and privileged communications.

 Investigations and proceedings conducted under the provisions of this chapter are confidential and all communications are privileged as provided for in Section 40‑1‑190.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Privileged Communications and Confidentiality 423.

Records 54, 60.

Westlaw Topic Nos. 311H, 326.

C.J.S. Records Sections 116, 118, 120, 126, 130 to 132, 139 to 142.

C.J.S. Witnesses Sections 370 to 371.

**SECTION 40‑82‑200.** Criminal violations and penalties.

 A person required by this chapter to obtain a license to do business in this State who has not obtained a license or who operates while his license is suspended or revoked or who violates a provision of this chapter or a regulation promulgated pursuant to this chapter, is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than two thousand dollars or imprisoned for not less than ninety days nor more than one year.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 22 to 23.

Westlaw Topic No. 190.

C.J.S. Gas Sections 4, 59.

**SECTION 40‑82‑210.** Civil penalties and injunctive relief.

 In addition to initiating a criminal proceeding for a violation of this chapter, the board may seek civil penalties and injunctive relief in accordance with Section 40‑1‑210.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 22 to 23.

Injunction 89(5).

Westlaw Topic Nos. 190, 212.

C.J.S. Gas Sections 4, 59.

C.J.S. Injunctions Sections 242 to 243, 245 to 247.

**SECTION 40‑82‑220.** License application requirements for various persons or entities; renewal.

 (A) The board may issue a license to a dealer who presents to the Department of Labor, Licensing and Regulation a completed application giving satisfactory evidence:

 (1) that the site has been approved;

 (2) of insurance as required by this chapter;

 (3) of principals or employees who have passed examinations required under this chapter;

 (4) that all fees have been paid.

 (B) The board may issue a license to an installer of appliances and equipment who presents to the Department of Labor, Licensing and Regulation a completed application with satisfactory evidence of:

 (1) insurance as required by this chapter;

 (2) equipment needed for safe installation;

 (3) principals or employees who have passed examinations under this chapter;

 (4) payment of all required fees.

 (C) The board may issue a license to a reseller who presents a completed application to the Department of Labor, Licensing and Regulation giving satisfactory evidence:

 (1) that the site has been approved;

 (2) of insurance as required by this chapter;

 (3) of principals or employees who have passed examinations required under this chapter;

 (4) that all fees have been paid.

 (D) The board may issue a license to a transporter who presents to the Department of Labor, Licensing and Regulation a completed application giving satisfactory evidence:

 (1) of insurance as required by this chapter;

 (2) of principals or employees who have passed examinations required under this chapter;

 (3) that all fees have been paid.

 (E) The board may issue a license to a utility gas plant which presents to the Department of Labor, Licensing and Regulation a completed application giving satisfactory evidence:

 (1) that site has been approved;

 (2) of insurance as required by this chapter;

 (3) of principals or employees who have passed examinations required under this chapter;

 (4) that all fees have been paid.

 (F) The board may issue a license to a cylinder exchange facility who presents a completed application to the Department of Labor, Licensing and Regulation giving satisfactory evidence:

 (1) of insurance as required by this chapter;

 (2) satisfactory evidence of equipment needed for safe operation of the facility;

 (3) of principals or employees who have passed examinations required under this chapter;

 (4) that all fees have been paid.

 (G) Each license must be renewed biennially and is valid through June 30 of the applicable year. A late fee of one hundred dollars may be charged to a licensee who fails to file a renewal application before July 1 in the applicable year. A licensee who fails to renew may be required to comply with the requirements of initial licensure.

HISTORY: 1999 Act No. 128, Section 1.

CROSS REFERENCES

Plan submittal requirements, see S.C. Code of Regulations R. 71‑8304.5.

Library References

Gas 10.

Westlaw Topic No. 190.

C.J.S. Gas Section 20.

**SECTION 40‑82‑230.** Examinations and equivalencies.

 The Department of Labor, Licensing and Regulation shall administer, at the request of the board, examinations approved by the board. The board may also recognize other examinations or training programs as the equivalent.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10.

Westlaw Topic No. 190.

C.J.S. Gas Section 20.

**SECTION 40‑82‑240.** Dealer storage capacities and waiver.

 (A) A dealer conducting business in the State:

 (1) must have or have access to facilities with a storage capacity of a minimum of 30,000 water gallons located within close proximity to the area to be served; however, no more than two dealers may share the capacity of one 30,000 gallon tank;

 (2) whose headquarters are outside of the State, must have storage capacity located in the State within close proximity to the area served in the State.

 (B) The board may waive the minimum bulk storage facility requirement of subsection (A).

 (C) If a dealer has access to another dealer’s facility, for purposes of subsection (A)(1), the dealer must have a written agreement, signed by both parties, stipulating the terms, conditions, and available capacity. A current agreement must be submitted at the time of each license renewal, and the duration of the agreement must, at a minimum, coincide with the length of the licensing period.

HISTORY: 1999 Act No. 128, Section 1; 2003 Act No. 16, Section 1.

Library References

Gas 10.

Westlaw Topic No. 190.

C.J.S. Gas Section 20.

Attorney General’s Opinions

Section 40‑82‑240 is constitutionally suspect and would in all probability be declared unconstitutional by a court as violative of the Commerce Clause. S.C. Op.Atty.Gen. (April 1, 2003) 2003 WL 21043494.

**SECTION 40‑82‑250.** General liability insurance.

 A transporter of propane, utility gas plant, dealer, reseller, cylinder exchange company, or installer of appliances engaged in any of the activities provided for in Section 40‑82‑30 shall obtain general liability insurance in the amount of five hundred thousand dollars from a company licensed to conduct business in this State as a prerequisite to obtaining a license under this chapter. The general liability insurance must include manufacturer’s or contractor’s liability and product’s liability insurance. The insurance carrier shall certify to the board through the Office of State Fire Marshal by a standard certificate of insurance executed by a licensed insurance agent that the required coverages are in effect and may not be canceled by the insurance carrier without at least thirty days notice to the board through the Office of State Fire Marshal by registered mail.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10.

Westlaw Topic No. 190.

C.J.S. Gas Section 20.

**SECTION 40‑82‑260.** Dealer ascertainment of reseller’s license.

 Before a dealer may sell liquefied petroleum gas to a person for resale to the public, the dealer shall ascertain that the person is licensed and certified by the board through the Office of the State Fire Marshal to resell the liquefied petroleum gas. A dealer wilfully violating this section is subject to penalties provided in this chapter.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10.

Westlaw Topic No. 190.

C.J.S. Gas Section 20.

**SECTION 40‑82‑270.** Notifying supplier concerning installation and servicing of system; notice regarding alterations or modifications.

 (1) An installer or service worker shall notify the supplier of propane before beginning any work on the system supplied by a liquefied petroleum gas supplier. If more than one liquefied petroleum gas supplier has supplied gas to the container of the system, the last supplier of liquefied petroleum gas must be notified before any work is performed on the system.

 (2) Any consumer, owner, end user, or person who alters or modifies in any way his liquefied petroleum gas equipment, gas burning appliance, or system installed by a licensed dealer shall, for informational purposes, notify the licensed dealer who next fills or otherwise services his liquefied petroleum gas system that such work has been performed. The licensed dealer shall notify their customers in writing at least once per year of the customer’s statutory obligation of notification in regard to modifications to their propane appliances or systems. This notice should be provided in a separate and distinct disclosure and not a part of other safety literature given to customers.

HISTORY: 1999 Act No. 128, Section 1; 2010 Act No. 155, Section 2, eff upon approval (became law without the Governor’s signature on May 13, 2010).

Effect of Amendment

The 2010 amendment inserted item designator (1) and added item (2).

CROSS REFERENCES

Immunity from civil liability for liquefied petroleum gas dealers, see Section 15‑3‑690.

Library References

Gas 10.

Westlaw Topic No. 190.

C.J.S. Gas Section 20.

**SECTION 40‑82‑280.** Orders concerning hazardous conditions; penalties.

 If a condition is found as a result of the inspection, examination, or investigation provided in Section 40‑82‑80 that is hazardous to the public safety, the board or the Office of the State Fire Marshal or an agent of the State Fire Marshal shall issue an order in writing to remove or correct the condition. If a person fails to comply with the terms of the order, the board may impose a fine, suspend the license, or refuse to renew or continue the license.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10, 22 to 23.

Westlaw Topic No. 190.

C.J.S. Gas Sections 4, 20, 59.

**SECTION 40‑82‑290.** Grounding electrical circuits or appliances.

 Electrical circuits or electrical appliances including, but not limited to, radios, telephones, or other electrical apparatus may not be grounded to a liquefied petroleum gas system or appliance. A dealer or a dealer’s agent finding a violation of this section shall request the owner of the property to remove the ground. If the owner fails to comply with this request, the dealer or the dealer’s agent shall report the noncompliance immediately to the board through the Office of the State Fire Marshal.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10.

Westlaw Topic No. 190.

C.J.S. Gas Section 20.

**SECTION 40‑82‑300.** Safety cut‑off valves on certain heating appliances.

 (A) A heating appliance installed for use in a hotel, motel, tourist home, school, church, theater, auditorium, institutional building, hospital, nursing home, convalescent home, or other place of public assembly or rest must be equipped with a pilot having a one hundred percent safety cut‑off valve of an automatic operating type. The pilot safety valve must have positive control of the flow of gas to the appliance burners in public places for sleeping purposes.

 (B) A vented space heater equipped with a one hundred percent safety cut‑off valve or an unvented space heater factory equipped with an oxygen depletion sensor pilot may be installed in sleeping quarters or bathrooms of residences and in areas of a manufactured home other than sleeping quarters or bathrooms:

 (1) a vented space heater is vented to the outside in accordance with manufacturer’s instructions;

 (2) the aggregate input BTU rating of the appliance does not exceed twenty BTU’s per hour per cubic foot of space in the room where the heater is placed;

 (3) the required clearances are maintained; and

 (4) the heater is securely anchored to the wall or floor.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10, 22 to 23.

Westlaw Topic No. 190.

C.J.S. Gas Sections 4, 20, 59.

**SECTION 40‑82‑310.** Reporting fires and explosions.

 An owner, manager, or operator of a vehicle or equipment regulated by this chapter within twenty‑four hours shall make a report to the board through the office of the State Fire Marshal of any fire or explosion in connection with the equipment or gas system which the person has serviced, installed, or performed other work upon of accidental or incendiary origin of which the person has knowledge, with as complete detail as possible, together with evidence as he has obtained after investigation of the discovery of the fire or explosion. Reports filed pursuant to this section are confidential and for the use of the board only pending investigation completion.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10, 22 to 23.

Westlaw Topic No. 190.

C.J.S. Gas Sections 4, 20, 59.

**SECTION 40‑82‑320.** Manufacturing by‑products exempt.

 The provisions of this chapter do not apply to liquefied petroleum gas used as a by‑product in the manufacture of a product.

HISTORY: 1999 Act No. 128, Section 1.

Library References

Gas 10, 22 to 23.

Westlaw Topic No. 190.

C.J.S. Gas Sections 4, 20, 59.

**SECTION 40‑82‑330.** Severability.

 If a provision of this chapter or the application of a provision to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

HISTORY: 1999 Act No. 128, Section 1.