

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/ SB 2462

SPONSOR: Agriculture Committee and Senator Garcia

SUBJECT: Agriculture and Consumer Services

DATE: April 4, 2003

REVISED: 4/10/03

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable/CS</u>
2.	<u>Keating</u>	<u>Johansen</u>	<u>FT</u>	<u>Fav/1 amendment</u>
3.	<u> </u>	<u> </u>	<u>AGG</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

This bill clarifies licensing requirements for individuals and companies that work with liquefied petroleum (LP) gas in industrial applications such as welding, forklifts, and other industrial uses. It revises regulations pertaining to qualifiers and master qualifiers and sets forth grounds for revocation or imposition of other checks on a license by the Department of Agriculture and Consumer Services (department). The bill revises reporting requirements for LP gas related accidents and minimum storage requirements for persons engaged in distributing LP gas for resale. In addition to existing civil penalties, the bill provides for administrative penalties and a warning letter in lieu of penalties for a first violation. The bill removes certain restrictions on the terms of membership in the Florida Propane Gas Education, Safety, and Research Council.

The bill changes the registration requirements for motor vehicle repair shops from annual to biennial and gives the department rulemaking authority to implement this change. It also changes some of the documentation required as part of the registration.

The bill requires a mover to name the department as a certificate holder on its insurance policy while it deletes the requirement that a mover provide certain social security numbers on its registration with the department.

The bill revises the criteria the department uses to determine if certain security requirements can be waived for sellers of travel. The bill limits the length and terms of a contract for ballroom dance studio contracts.

The bill provides that the provisions of Florida's Deceptive and Unfair Trade Practices Act do not apply to the sale, lease, rental, or appraisal of real estate, instead of excluding only acts or practices by licensed professionals.

This bill creates s. 527.0201, F.S., and substantially amends the following sections of the Florida Statutes: 501.212, 527.01, 527.02, 527.065, 527.11, 527.13, 527.22, 559.904, 559.929, 501.143, 507.03, and 507.04.

II. Present Situation:

The department reports that the number of companies dealing with LP gas for industrial applications has been increasing and there has been confusion as to which “category license” a company should obtain. As a result, some companies obtain several licenses because they are not sure which one applies. This has caused companies to make capital investments in equipment which is not needed for the services performed. Currently, there is no prohibition against an individual being the qualifier for more than one location, nor is there any experience requirement to be a master qualifier. There are no procedures giving a licensee time for a qualified employee to take the steps to replace a departed master qualifier nor does current law specify who has the responsibility to report a vacancy in a master qualifier position. There are no provisions for the department to revoke, suspend or otherwise address a master qualifier’s certificate even if culpable conduct exists. The criteria for reporting LP gas-related accidents are so broad that the department receives unnecessary reports of events that occur routinely in the day-to-day operation of a facility. The department does not have discretion to handle licensee problems with administrative fines or a warning letter for a first violation in lieu of civil penalties. Current restrictions on who can serve as members of the Florida Propane Gas Education, Safety, and Research Council and the term of service of the members limit the available pool of candidates to serve as members.

Approximately 20,000 motor vehicle repair shops are now required to register annually with the department and provide copies of certain forms used by the business. Staggered, biennial registrations would help alleviate a workload problem for the department.

Presently, the department can waive the security requirement for sellers of travel if five different criteria are met, one of which is to demonstrate financial stability through submission of an audited financial statement or prior year’s federal income tax return.

F.S. 507.01, F.S., requires movers, as that term is defined in F.S. 507.01, F.S., to include the social security number of certain key personnel in their annual registration, whereas s. 119.0721, F.S., which was passed in 2002 by the legislature, bans the disclosure of social security numbers to protect consumers. There is no requirement that the department be shown as a certificate holder on a mover’s insurance policy which can result in a policy being cancelled without the department’s knowledge.

The exclusionary language in s. 501.212, F.S., which relates to real property transactions in Florida’s Deceptive and Unfair Trade Practices Act appears to exclude only acts or practices by licensed professionals whereas, historically, the act has not been applied to any real property transactions.

Current law allows ballroom dance studio contracts to be perpetual.

III. Effect of Proposed Changes:

Section 1. Amends s. 527.01, F.S., as follows: expands the definition of “qualifier” by adding a “Category V liquefied petroleum gases dealer for industrial uses only” and defining that term to be a person that deals with liquid gas containers that are used in welding, forklifts, or other industrial uses; revises the definition of a “Category II Liquefied Petroleum gas dispenser” to clarify that it includes a person who maintains a cylinder storage rack at a licensed business location.

Section 2. Amends 527.02, F.S., by adding “Category V Liquefied Petroleum gas dealer” to the list of persons who must be licensed and establishes the amount of the application fee at \$300 and the renewal fee at \$200.

Section 3. Creates s. 527.0201, F.S.; reorganizes existing subsections of the statute under “Qualifiers; master qualifiers; examinations. Adds “Category V Liquefied Petroleum gas dealer” to the list of persons required to pass a written exam to obtain a license. Provides that any person employed by a license applicant can apply to take the examination and that an individual whose qualifier status has expired must pass another examination. Limits a person’s capacity to act as a qualifier to one licensed location. Requires a person applying for certification as a master qualifier to provide documentation of a minimum of one year’s work experience in the gas industry. Requires that the report of a vacancy in the qualifier or master qualifier position be made to the department by the departing qualifier or master qualifier and the licensed company. Clarifies conditions that must be met for a license to be reinstated when it has been suspended because of the lack of a duly designated qualifier. Sets forth procedures that a category I LP gas dealer or LP gas installer must follow if the dealer no longer possesses a master qualifier but employs a category I LP gas dealer or LP gas installer qualifier. Specifies causes for which the department may deny, refuse to renew, suspend, or revoke any qualifier card or master qualifier certificate.

Section 4. Amends s. 527.06, F.S., to conform a cross-reference.

Section 5. Amends s. 527.065, F.S., to provide that an LP gas-related incident must be reported by an LP gas licensee only when it involves death, personal injury, or property damage exceeding \$1,000.

Section 6. Amends s. 527.11, F.S., to revise the minimum storage requirements for persons who engage in the distribution of LP gas for resale.

Section 7. Amends s. 527.13, F.S., to authorize the department to impose administrative penalties, in addition to civil penalties, for violation of the provisions of Chapter 527, F.S. Provides that the department may issue a warning letter in lieu of an administrative or civil penalty for a first violation.

Section 8. Amends s. 527.22, F.S., to remove certain restrictions on the terms of membership of the Florida Propane Gas Education, Safety, and Research Council.

Section 9. Amends s. 559.904, F.S., to allow motor vehicle repair shops to register biennially instead of annually and specifies that the fee is to be calculated on a per-year basis. Requires that estimate and invoice forms must accompany a renewal application only if the original forms have changed. Eliminates the use of an exemption certificate as proof of registration by persons applying for or renewing a local occupation license. Gives the department rulemaking authority to stagger the registrations over a 2-year period.

Section 10. Amends s. 559.929, F.S., to eliminate the requirement that a seller of travel must demonstrate financial responsibility to have certain security requirements waived if the seller meets the other specified requirements.

Section 11. Amends s. 501.143, F.S., to limit the length of a contract for ballroom dance studio services or lessons to 36 months and imposes other restrictions on renewals of a contract and representations made regarding a contract.

Section 12. Amends 507.03, F.S., to delete the requirement that social security numbers must be provided for certain individuals in the annual registration of a mover.

Section 13. Amends s. 507.04, F.S., to require a mover to name the department as a certificate holder in its certificate of insurance.

Section 14. Amends subsection (6) of s. 501.212, F.S., providing that the provisions of Florida's Deceptive and Unfair Trade Practices Act do not apply to the sale, lease, rental, or appraisal of real estate, instead of excluding only acts or practices by licensed professionals.

Section 15. Provides that this act shall take effect upon becoming law

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The fiscal impact from the new licensing category for industrial users of liquefied petroleum gas will result in a non-recurring loss of licensing revenue in fiscal year 2003-04 of \$1,525.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Finance and Taxation:

The amendment eliminates the change in the bill that the provisions of Florida's Deceptive and Unfair Trade Practices Act do not apply to real property transactions by a licensed real estate broker, appraiser, or sales person. (WITH TITLE AMENDMENT)