

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Budget Committee

BILL: CS/SB 960

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Bennett

SUBJECT: Liquefied Petroleum Gas

DATE: March 29, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Fav/CS
2.	McCarthy	Cooper	CM	Favorable
3.	Blizzard	Meyer, C.	BC	Pre-meeting
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill requires the Department of Agriculture and Consumer Services (department) and other state agencies to enforce standards relating to the separation distance between liquefied petroleum gas (LP) containers and structures, property lines, and sources of ignition contained in the 2011 edition of the National Fire Protection Association (NFPA) 58, also known as the Liquefied Petroleum Gas Code. The bill also amends the definition of “propane” to reflect the national standard

The bill amends sections 527.06 and 527.21, Florida Statutes.

II. Present Situation:

The National Fire Protection Association (NFPA) 58, Liquefied Petroleum Gas Code

The National Fire Protection Association (NFPA) is an international nonprofit organization that was established in 1896 to reduce the risks and effects of fires by establishing building consensus

codes.¹ The NFPA 58, also known as the Liquefied Petroleum Gas Code, applies to “the storage, handling, transportation, and use of LP-Gas[es],” which is defined by the code to mean “gasses at normal room temperature and atmospheric pressure [that] liquefy under moderate pressure and readily vaporize upon release of the pressure.”²

The Bureau of Liquefied Petroleum Gas Inspection (bureau) within the department is the primary agency charged with the regulation of liquefied petroleum (LP) gas wherever the product is stored, distributed, transported and used in Florida. The bureau also has statutory authority³ over the licensing, inspection, enforcement, accident investigation and training of LP gas in the state. The department, the Department of Community Affairs’ Florida Building Code Commission (FBC) and the Department of Financial Services’ Office of the State Fire Marshal (OSFM) each adhere to fire safety codes put forth by the National Fire Prevention Association (NFPA)⁴ regarding the regulation of LP gas.

Section 527.06(3), F.S., provides the department with the authority to adopt rules that are in substantial conformity with NFPA’s published safety standards. Subsection (3), specifically provides that:

Rules in substantial conformity with the published standards of the National Fire Protection Association shall be deemed to be in substantial conformity with the generally accepted standards of safety concerning the same subject matter.

Recently, the NFPA approved a 2011 version of the NFPA 58 LP gas code, which reduces the setback requirements for propane tanks⁵ from ten feet to five feet from a building, adjoining property line, other petroleum tank, or any source of ignition. Current department rules mandate a ten-foot setback for propane tanks. The department has started the rule-making process to implement the new national standards. However, as a result of Executive Order 11-01⁶, the FBC cannot commence with the rulemaking until the proposed rule is reviewed and approved by the Office of Fiscal Accountability and Regulatory Reform. Likewise, the OSFM has not yet initiated rulemaking.

Many cell phone companies in the state use backup electrical generators at their cell tower sites and switching stations. These generators are usually powered by LP gas with tanks in excess of 125 gallons, thus falling under the purview of the 2011 version of the NFPA 58 LP gas code.

¹ National Fire Protection Association Website, *Overview*, available online at <http://www.nfpa.org/categoryList.asp?categoryID=495&URL=About%20NFPA/Overview> (last visited on March 18, 2011).

² National Fire Protection Association Website, *Document Scope of NFPA 58* available online at <http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=58> (last visited on March 18, 2011).

³ Chapter 527, F.S.

⁴ NFPA 1, NFPA 54, and NFPA 58 (<http://www.nfpa.org/categoryList.asp?categoryID=124&URL=Codes%20&%20Standards>)

⁵ The set back only applies to stationary engine containers with a fill valve that has an integral manual shutoff value.

⁶ http://www.flgov.com/wp-content/uploads/2011/01/scott.eo_one_.pdf

III. Effect of Proposed Changes:

Section 1 amends 527.06, F.S., to require the department, the FBC, and the OSFM to enforce the same LP gas container separation distances as adopted in the 2011 version of the NFPA 58 gas code. By enacting this legislation, the footprint of cell phone towers and switching stations may be reduced, depending upon the tanks used to store the LP gas for the backup generators. The bill also provides for the statutory language regarding the 2011 version of the NFPA 58 gas code to expire once the department, the FBC, and the OSFM have adopted the 2011 version.

Section 2 amends 527.21, F.S., to specify that the definition for propane is defined by the NFPA 58 Liquefied Petroleum Gas Code.

Section 3 provides that this act shall take effect July 1, 2011.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

To the extent that the new code reduces set back requirements for propane tanks from buildings and sources of ignition, the private sector may save on construction costs.

C. Government Sector Impact:

The Department of Agriculture and Consumer Services and other state agencies will be required to enforce the same NFPA 58 LP gas container separation requirements. The provisions in this bill will not have a fiscal impact to the department.

VI. Technical Deficiencies:

None.

VII. Related Issues:

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environmental Protection and Conservation Committee on March 10, 2011:
The CS provides for repeal under certain circumstances.

- B. **Amendments:**

None.