

1 HB234
2 135976-1
3 By Representative Wood
4 RFD: Boards, Agencies and Commissions
5 First Read: 08-FEB-12

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8 SYNOPSIS: Under existing law, the Alabama Liquefied
9 Petroleum Gas Board is responsible for enforcing
10 state and federal statutes related to the liquefied
11 petroleum gas industry throughout the state.

12 This bill would provide for the posting of
13 board rules, and any pending amendments to the
14 rules, on the board website in lieu of mailing a
15 pamphlet containing the rules to all registered LP
16 gas dealers.

17 This bill would delete the requirement that
18 the administrator file an official bond with the
19 Secretary of State before beginning employment.

20 This bill would authorize the board to issue
21 uniform nontraffic citations, in lieu of uniform
22 traffic citations, relating to the transportation
23 of liquefied petroleum gas.

24 This bill would delete the requirement that
25 every applicant for a Class A permit provide the
26 board with proof from a reputable LP gas supplier

1 of gases sufficient to supply the customers of the
2 applicant.

3 This bill would provide further for a Class
4 F permit, would delete reference to temporary
5 permits, would delete antiquated language, would
6 revise the minimum requirements for commercial
7 general liability and automobile liability
8 insurance coverage of applicants, would delete
9 reference to the Liquefied Petroleum Gas Board
10 Personal Bond Fund, would require all LP-gas
11 delivery cargo vehicles to be appropriately marked,
12 would change the date on which fees for Class F and
13 Class F-1 permits are due from January 1 to July 1,
14 and would delete language providing for a refund of
15 certain fees when a permit holder sells gas to an
16 end user who is outside of the state.

17 This bill would delete the language
18 providing for the ability of an entity to act as an
19 agent for duties already provided for under an
20 existing permit.

21 This bill would also delete references to
22 specific paragraphs of the National Fuel Gas Code.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Sections 9-17-101, 9-17-103, 9-17-104,
2 9-17-105, 9-17-106, 9-17-107, 9-17-109, 9-17-121, 9-17-122,
3 40-17-161, and 40-17-164, Code of Alabama 1975, relating to
4 the Alabama Liquefied Petroleum Gas Board and the Liquefied
5 Petroleum Gas Fuel Tax; to provide for the posting of board
6 rules, and amendments to rules, on the board website; delete
7 the requirement that the board administrator file an official
8 bond with the Secretary of State; authorize the board to issue
9 uniform nontraffic citations, in lieu of uniform traffic
10 citations, relating to the transportation of LP-gas; to delete
11 the requirement that Class A permit applicants provide the
12 board with proof of the availability of gases sufficient to
13 supply customers; provide further for a Class F permit; delete
14 reference to temporary permits; delete antiquated language;
15 revise minimum requirements for commercial general liability
16 and automobile liability insurance coverage for applicants;
17 delete reference to the LP-Gas Board Personal Bond Fund;
18 require all LP-gas delivery cargo vehicles to be appropriately
19 marked; change the date on which fees for Class F and Class
20 F-1 permits are due from January 1 to July 1; delete the
21 refund of certain fees when a permit holder sells gas to an
22 end user who is outside of the state; delete the ability of an
23 entity to act as an agent for duties already provided for
24 under an existing permit.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 9-17-101, 9-17-103, 9-17-104,
27 9-17-105, 9-17-106, 9-17-107, 9-17-109, 9-17-121, 9-17-122,

1 40-17-161, and 40-17-164 of the Code of Alabama 1975, are
2 amended to read as follows:

3 "§9-17-101.

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

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

24 "(c) From each of four substantially equal
25 geographical areas of the state, designated as the southeast,
26 the northeast, the northwest, and the southwest, the Governor
27 shall appoint one retail permit holder member of the board.

1 Such member shall be appointed from a list of ~~at least~~ no more
2 than three nominees receiving the largest number of votes
3 according to written ballots executed by representatives of
4 retail Class A permit holders.

5 "(d) In the event the Governor has not appointed a
6 board member at the end of 90 days after the list of retail
7 permit holders has been submitted to him or her, the person on
8 the list having the most votes shall become the board member.
9 In the event of a tie for the most votes, a majority vote of
10 the board members shall determine which person of those tied
11 shall become the board member.

12 "(e) In the event a vacancy occurs during the term
13 of a board member, the administrator shall call an election to
14 fill the vacancy and the election shall be held and conducted
15 pursuant to subsection (f). When an elected board member sells
16 his or her LP-gas business or for any reason is no longer
17 actively engaged in the day-to-day operation of an LP-gas
18 business, his or her seat on the board shall be automatically
19 vacated by the completion of the next regularly scheduled
20 board meeting.

21 "(f) The balloting for board members, successor
22 members, and filling vacancies for an unexpired term of office
23 shall be conducted by the administrator of the board under the
24 direction and supervision of the board. For appointments and
25 vacancies, the administrator shall forward by registered or
26 certified mail an official ballot to each retail permit holder
27 or his or her duly designated representative with instructions

1 for executing the ballot and returning it to the board. The
2 terms of all board members shall be for six years, including
3 the consumer member and members serving on March 20, 1992, but
4 no member shall be denied the right to succeed himself or
5 herself and no member shall serve more than two consecutive
6 terms of office.

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

19 "(h) The board may promulgate rules and regulations
20 having the force and effect of law to carry out this article.

21 "§9-17-103.

22 "(a) The board shall have the power to make and
23 enforce rules and regulations governing the design,
24 construction, location, installation and operation of
25 containers, tanks, systems and equipment for storing,
26 utilizing, handling and transporting liquefied petroleum gases
27 and rules to secure the substantial accuracy of all meters,

1 safety devices and regulators generally used in connection
2 with such gases. No person shall be permitted to certify the
3 accuracy of their own company owned meters. Said rules and
4 regulations shall be such as are reasonably necessary for the
5 protection of the health and safety of the public and persons
6 using such gases, and shall be adopted pursuant to the state
7 administrative procedure statutes. All rules and regulations
8 shall be ~~printed in pamphlet form and shall be mailed to all~~
9 ~~liquefied petroleum gas dealers registered with the board, and~~
10 ~~to any person upon request~~ posted on the website of the board
11 and available for download by the public. The board, upon
12 request, shall provide a printed copy of the rules and
13 regulations. If a rule or regulation is amended, the revised
14 rule shall be posted on the website before becoming effective.

15 "(b) In order that the administrator of the board
16 and inspectors may determine whether or not a danger to the
17 public or to a liquefied petroleum gas user exists, and there
18 is reasonable cause to believe that such danger does exist,
19 the said administrator and inspectors may enter any building
20 or upon any premises connected to a liquefied petroleum gas
21 system for the sole purpose of conducting an inspection or an
22 investigation of such system. If a violation is found in
23 conducting such inspection which is determined to be a hazard
24 and a danger to the public or to a liquefied petroleum gas
25 user, said administrator and inspectors shall have the power,
26 duty and authority to shut off the liquefied petroleum gas
27 system and to condemn the system from further use for purposes

1 of safety until the gas system has been certified as back in
2 compliance with adopted liquefied petroleum gas safety code
3 standards and until the red tag is removed, or authorized to
4 be removed, by a board appointee or employee. When a system is
5 condemned, it shall be "red-tagged."

6 "§9-17-104.

7 "(a) The board shall appoint, prescribe the duties
8 of, and fix the compensation of an administrator. ~~Before~~
9 ~~entering upon the duties of office, the administrator shall~~
10 ~~make and file with the Secretary of State an official bond in~~
11 ~~an amount to be fixed by the board. Premiums of the bond shall~~
12 ~~be paid out of funds of the board. The bond shall be payable~~
13 ~~to the State of Alabama and shall be written by an approved~~
14 ~~insurance company qualified to do business in the State of~~
15 ~~Alabama.~~ The board may dismiss an administrator at its
16 discretion. The board shall adopt a seal, which shall be in
17 the care and custody of the administrator. The board may,
18 subject to the Merit System, employ and prescribe the duties
19 of assistants and inspectors necessary to carry out this
20 article. The board may, without regard to the Merit System
21 Act, engage and employ consultants and technical advisors
22 considered necessary in carrying out its responsibilities.

23 "(b) The administrator and inspectors are
24 constituted peace officers of the State of Alabama and are
25 clothed with the powers of peace officers and deputy sheriffs,
26 and may exercise such powers anywhere within the state. They
27 may issue a warning ticket or a uniform ~~traffic~~ nontraffic

1 citation to or arrest violators of Sections 40-17-160 to
2 40-17-166, inclusive, and any state or federal law or
3 regulation adopted by the board relating to the transportation
4 of liquefied petroleum gas and carry such violators before the
5 district court in the county in which the violation is
6 committed.

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

14 "(d) All balances in the fund in excess of \$200,000
15 at the end of each fiscal year shall be transferred to the
16 Liquefied Petroleum Gas Research and Education Fund
17 established in the State Treasury. The monies in the Liquefied
18 Petroleum Gas Research and Education Fund shall be paid out
19 only by warrant of the Comptroller upon the Treasurer, upon
20 itemized vouchers, approved by the administrator; provided,
21 that no funds shall be withdrawn or expended except as
22 budgeted and allotted according to the provisions of Sections
23 41-4-80 through 41-4-96 and Sections 41-19-1 through 41-19-12,
24 and only in amounts as stipulated in the general appropriation
25 or other appropriation bills each new fiscal year for
26 research, development, and training and the implementation of
27 marketing, advertising, and information programs relating to

1 LP-gas. Any other appropriations, grants, or other sources of
2 funding made available for the purpose of LP-gas research and
3 education shall be deposited in the LP-Gas Research and
4 Education Fund.

5 "§9-17-105.

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

21 "(b) The permits shall be of 10 types:

22 "(1) PERMIT A. Shall give the holder a right to
23 engage in or continue the business of selling, distributing,
24 storing, or transporting liquefied petroleum gases and to
25 engage in or continue the business of ~~selling~~, installing,
26 servicing, repairing, or adjusting liquefied petroleum gas
27 containers, tanks, or systems at retail or installing,

1 repairing, servicing, removing, or adjusting liquefied
2 petroleum carburetion equipment, or to perform magnetic,
3 hydrostatic, visual, or X-ray inspections of liquefied
4 petroleum gas storage containers, cargo tanks, motor fuel
5 containers, and cylinders. Before any person engages in or
6 continues the business of selling, distributing, storing, or
7 transporting liquefied petroleum gases, except where the
8 liquefied petroleum gas so handled is in quantities of less
9 than one gallon U.S. water capacity and is an integral part of
10 a device for its utilization, or before any person engages in
11 the business of installing, servicing, removing, repairing, or
12 adjusting liquefied petroleum gas containers, tanks, or
13 systems at retail or installing, repairing, servicing,
14 removing, or adjusting liquefied petroleum carburetion
15 equipment, or to perform magnetic, hydrostatic, visual, or
16 X-ray inspections of liquefied petroleum gas storage
17 containers, cargo tanks, motor fuel containers, and cylinders
18 in the State of Alabama, the person shall first obtain from
19 the board a Permit A and shall execute and file with the board
20 the insurance and a surety in cash as herein required.

21 ~~"The board shall require every applicant for Permit~~
22 ~~A to present evidence to the board that the applicant has a~~
23 ~~bona fide contract or a letter of intent to sell, from a~~
24 ~~reputable supplier of liquefied petroleum gas for an amount of~~
25 ~~the gases sufficient to supply the customers the applicant has~~
26 ~~estimated that will be served.~~ In addition to the requirement
27 of possessing a Class A permit, persons doing business as or

1 in a name other than the name listed on the Class A permit
2 shall be required to have a separate Class B-1 permit unless
3 the person doing business as or in another name has a separate
4 Class A permit for each business.

5 "(2) PERMIT B. Shall give the holder a right to
6 engage in or continue the business of transporting, storing,
7 distributing, and/or selling liquefied petroleum gas at
8 wholesale or in unit quantities of 5,000 gallons or more at
9 retail to end users or act as wholesale distributors,
10 suppliers, or agents thereof or act as a consignor or shipper
11 that delivers or causes LP-gas to be delivered in the State of
12 Alabama. Before any person engages in or continues the
13 business of transporting, storing, distributing, and/or
14 selling liquefied petroleum gas at wholesale in any quantity
15 to retailers or retail to end users in unit quantities of
16 5,000 gallons or more or to other wholesaler distributors,
17 suppliers, or agents thereof in the State of Alabama and not
18 being a holder of a Permit A, the person shall first obtain
19 from the board a Permit B and shall execute and file the
20 insurance and surety in cash as required herein, except that
21 those wholesale distributors, suppliers, consignors, shippers,
22 or agents thereof who only sell liquefied petroleum gas at
23 wholesale and transport no gas in the state shall not be
24 required to file a motor vehicle ~~or general~~ liability
25 certificate of insurance with the board. Class B permit
26 holders shall keep records and shall report monthly, and at
27 all other times as the board shall deem necessary, all sales

1 of liquefied petroleum gas made to retailers, end users, and
2 to other wholesale distributors, suppliers, or agents in this
3 state. Failure to make timely reports and pay required fees
4 shall cause interest and penalties to be assessed as described
5 in Section 9-17-109. Any person possessing a valid Class A
6 permit shall not be required to obtain a Class B permit.

7 "(3) PERMIT B-1. Shall give the holder a right to
8 operate an individual branch, division, or subdivision or to
9 act as an agent of a Class A permit holder to engage in or
10 continue the business of selling, storing, or transporting
11 liquefied petroleum gases at retail and to engage in or
12 continue the business of selling, installing, servicing,
13 repairing, removing, or adjusting liquefied petroleum gas
14 containers, tanks, or systems at retail or to install, repair,
15 remove, service, or adjust liquefied petroleum carburetion
16 equipment, or to perform magnetic, hydrostatic, visual, or
17 X-ray inspections of liquefied or petroleum gas storage
18 containers and cylinders. Authorized agents of Class A or B-1
19 permit holders who only operate ~~off-premises~~ cylinder ~~filling~~
20 exchange stations shall not be required to obtain a Class B-1
21 permit. Existing off-premises cylinder filling stations that
22 are an authorized agent of a Class A or B-1 permit holder as
23 of September 30, 2012, shall have 24 months to obtain a Class
24 F permit for their operations. No permit holder shall supply
25 LP-gas to off-premises cylinder filling stations required to
26 possess a Class F permit until he or she has been properly
27 permitted by the board.

1 ~~"The board or the board administrator may authorize~~
2 ~~any person to act as an agent of a Class A or B-1 permit~~
3 ~~holder to install, service, repair, adjust, or inspect~~
4 ~~liquefied petroleum gas containers, tanks, and systems without~~
5 ~~obtaining a Class B-1 permit; provided that the authorized~~
6 ~~agents have completed the board's certification requirements~~
7 ~~and the permit holder has provided the board with proof that~~
8 ~~the agents have met the insurance and surety, in cash,~~
9 ~~consistent with the requirements of this section. The~~
10 ~~authorized agents shall not be required to meet the storage~~
11 ~~requirements of Section 9-17-107.~~

12 "Before any person engages in or continues in the
13 operation of an individual branch, division, or subdivision or
14 acts as an agent of a valid Class A permit holder to sell,
15 store, or transport liquefied petroleum gas and to sell,
16 install, service, repair, or adjust liquefied petroleum gas
17 containers, tanks and systems at retail, or to install,
18 repair, service, remove, or adjust liquefied petroleum
19 carburetion equipment, or to perform magnetic, hydrostatic,
20 visual, or X-ray inspections of liquefied petroleum gas
21 storage containers, cargo tanks, motor fuel containers and
22 cylinders, the person shall first obtain from the board a
23 Permit B-1, meet the minimum storage requirements set out in
24 Section 9-17-107, and shall execute and file with the board
25 the insurance and surety in cash as herein required. Branches
26 that were in operation when this article became law shall not
27 be required to meet the storage requirement of Section

1 9-17-107. A Class B-1 permit holder shall not be required to
2 file or maintain separate or additional insurance or surety in
3 cash as specified by this section provided that the Class B-1
4 permit holder is included in the parent company's Class A
5 permit insurance and surety in cash on file with the board.

6 "(4) PERMIT C. Shall give the holder a right to
7 engage in or continue the business of installing, servicing,
8 repairing, removing, or adjusting liquefied petroleum gas
9 piping and installing, servicing, repairing, removing, or
10 adjusting liquefied petroleum gas appliances on the down
11 stream side of the tank outlet valves only. Before any person
12 engages in or continues the business of installing, servicing,
13 repairing, removing, or adjusting liquefied petroleum gas
14 piping, and installing, servicing, repairing, removing, or
15 adjusting liquefied petroleum gas appliances on the down
16 stream side of the tank outlet valves only, and not being a
17 holder of a Permit A and B-1, the person shall first obtain
18 from the board a Permit C and execute and file with the board
19 the insurance and a surety in cash as herein required. A
20 separate permit shall be required for each business location.

21 "(5) PERMIT C-1. Shall give the holder a right to
22 engage in or continue the business of installing, servicing,
23 repairing, removing, or adjusting any liquefied petroleum gas
24 motor fuel carburetion equipment, the repair of appurtenances
25 on motor fuel containers, cylinders, or carburetion
26 components. Before any person engages in or continues the
27 business of installing, servicing, repairing, removing, or

1 adjusting liquefied petroleum gas motor fuel carburetion
2 equipment, the repair of appurtenances on motor fuel
3 containers, cylinders, or carburetion components in the State
4 of Alabama, the person shall execute with the board the
5 insurance and surety in cash herein required. A or B-1 permit
6 holders shall not be required to obtain a Permit C-1. A
7 separate permit shall be required for each business location.

8 "(6) PERMIT C-2. Shall give the holder a right to
9 engage in or continue the business of performing magnetic,
10 hydrostatic, visual or X-ray inspections of liquefied
11 petroleum gas storage containers, cargo tanks, motor fuel
12 containers and cylinders. Before any person engages in or
13 continues the business of performing magnetic, hydrostatic,
14 visual, or X-ray inspection of liquefied petroleum gas storage
15 containers, cargo tanks, motor fuel containers, and cylinders
16 in the State of Alabama and not being a holder of a Permit A
17 or B-1 the person shall obtain a Class C-2 Permit and execute
18 with the board the insurance and surety in cash herein
19 required. A separate permit shall be required for each
20 business location.

21 "(7) PERMIT D. Shall give the holder a right to
22 engage in or continue the business of installing and/or
23 repairing, or removal, of bulk storage systems of 5,000
24 gallons water capacity or more in single containers or in an
25 aggregate of 5,000 gallons water capacity of a multi-container
26 installation only. Before any person engages in or continues
27 the business of installing bulk storage systems of 5,000

1 gallons water capacity or more in single containers or in a
2 multi-container installation of an aggregate of 5,000 gallons
3 water capacity, in the State of Alabama and not being a holder
4 of a Permit A, the person shall first obtain from the board a
5 Permit D and shall execute and file with the board the
6 insurance and surety in cash as herein required.

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

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

1 "Before any person engages in or continues the
2 business of calibration and/or repair of liquefied petroleum
3 gas liquid meters, in the State of Alabama and not being a
4 holder of a Permit A, that person shall first obtain from the
5 board a Permit E and shall execute and file with the board the
6 insurance and surety in cash as herein required.

7 "(9) PERMIT F. Shall give the holder the right to
8 engage in or continue the business of filling LP-gas cylinders
9 and/or LP-gas motor fuel containers of less than 351 pounds
10 water capacity from a stationary filling station. Before any
11 person engages in or continues in the business of filling
12 LP-gas cylinders and/or LP-gas motor fuel containers and not
13 being a holder ~~or an agent~~ of a Permit A or Permit B-1, the
14 person shall first obtain from the board a Permit F and shall
15 execute and file with the board the insurance and surety in
16 cash as herein required. Owners of businesses that hold a
17 Permit F shall ensure that only trained, qualified personnel
18 fill cylinders that contain LP-gas. Permit F holders shall not
19 hold a Class F-1 permit. A separate permit, surety in cash and
20 insurance certificate shall be required for each filling
21 station. End users filling cylinders only for their own use
22 shall not be required to obtain a Class F permit.

23 "(10) PERMIT F-1. Shall give the holder the right to
24 engage in or continue in the business of selling or filling
25 welding or cutting gases as defined in subdivision (7) of
26 Section 9-17-100 or selling or filling LP-gas cylinders and/or
27 LP-gas motor fuel containers of less than 351 pounds water

1 capacity from a stationary filling station and to transport
2 welding or cutting gases, LP-gas cylinders, and/or LP-gas
3 motor fuel containers. To qualify for a Class F-1 permit, the
4 applicant shall be in the business of selling welding or
5 cutting gas supplies and shall meet all state and federal
6 regulations for the transportation of LP-gas. Holders of a
7 Permit F-1 shall not sell more than 40,000 gallons of LP-gas
8 each calendar year to be verified by purchases received in the
9 previous 12 months in a sworn affidavit at time of renewal of
10 the Permit F-1. Permit holders whose gallons exceed 40,000
11 gallons for the preceding 12 months shall meet the
12 requirements of either the Permit A or Permit B-1, whichever
13 permit is applicable. Permit holders who exceed 40,000 gallons
14 in a calendar year shall be authorized to continue in the
15 business of selling, filling, and transporting welding or
16 cutting gases, LP-gas cylinders, and/or motor fuel containers
17 under their Permit F-1, while the applicant is completing the
18 requirements to obtain the proper permit provided that the
19 permit holder has filed a completed application for the proper
20 permit with the board. Failure to file an application for the
21 proper permit and/or provide the required affidavit by the
22 31st of ~~January~~ July after the Permit F-1 expiration date
23 shall cause cancellation of the Permit F-1. Holders of a
24 Permit F-1 shall not transport LP-gas in any bulk quantity.
25 Holders of a Permit F-1 shall not operate off-premise cylinder
26 exchanges or off-premise filling stations. Owners of
27 businesses that hold a Permit F-1 shall ensure that only

1 trained, qualified personnel fill or transport containers or
2 cylinders that contain LP-gas. Before any person engages in or
3 continues in the business of selling, transporting, or filling
4 welding or cutting gases, LP-gas cylinders, and/or LP-gas
5 motor fuel containers when the person is not ~~an agent of or~~ a
6 holder of either a Permit A or Permit B-1, the person shall
7 first obtain from the board a Permit F-1 and shall execute and
8 file with the board on a form provided by the board the
9 insurance and surety in cash as herein required. No person
10 shall act as an agent of any Permit F-1 holder. Permit F-1
11 holders shall not hold a Class F permit. A separate permit,
12 surety in cash, and insurance certificate shall be required
13 for each filling station location.

14 ~~"(11) The administrator may issue temporary Class B,~~
15 ~~B-1, C, C-1, C-2, D, E, F, and F-1 permits as soon as all~~
16 ~~requirements have been met. The temporary permit shall remain~~
17 ~~in effect until the next regular board meeting, unless the~~
18 ~~board extends the effective date of any such temporary permit~~
19 ~~by official action.~~

20 "(c) The board shall establish and maintain a LP-Gas
21 Recovery Fund conditioned on full compliance with this article
22 and the rules and regulations of the board. When the
23 administrator has determined that there are claims against the
24 LP-Gas Recovery Fund, there shall be a third party hearing by
25 an administrative law judge from the office of the Attorney
26 General to adjudicate the matter. When the appeal time has
27 lapsed after an administrative hearing where the cash surety

1 is determined to be in default, the administrator shall
2 initiate action to recover the five thousand dollars (\$5,000)
3 cash surety from the person found to be in violation of this
4 article and transfer the cash surety into the LP-Gas Research
5 and Education Fund. After the conclusion of the appeal time,
6 payment shall be received in the board office within 10 days.
7 Interest on the payment shall begin to accrue on the eleventh
8 day at the rate of one percent per month or any fraction
9 thereof provided that the board, for good cause shown, may
10 waive the interest or any fraction thereof. Failure to remit
11 payment and interest within 30 days after the expiration of
12 the time to appeal, may result in the suspension or revocation
13 of the person's permit and cause the administrator to transfer
14 five thousand dollars (\$5,000) out of the LP-Gas Recovery Fund
15 into the LP-Gas Research and Education Fund.

16 ~~"(1) Initial payment to the LP-Gas Recovery Fund by~~
17 ~~all permit holders, except those not required to file a cash~~
18 ~~surety shall be one hundred dollars (\$100) payable as~~
19 ~~prescribed by this article. Class C, C-1, and C-2 permit~~
20 ~~holders shall only be required to file a surety in cash for~~
21 ~~the company's initial permit. Thereafter, payment Payment made~~
22 ~~to the LP-Gas Recovery Fund by a permit holder shall be made~~
23 ~~upon application to the board for the initial permit. Payment~~
24 ~~shall be one hundred dollars (\$100) and shall be refundable~~
25 ~~only if the application is denied or cancelled by the board.~~

26 "(2) When the balance in the LP-Gas Recovery Fund is
27 less than twenty-five thousand dollars (\$25,000), each permit

1 holder shall, on order of the board, make a non-refundable
2 payment to the LP-Gas Recovery Fund. The payment will be
3 determined by the board to return the LP-Gas Recovery Fund
4 balance to forty thousand dollars (\$40,000). Notwithstanding
5 the foregoing, the payment shall not exceed one hundred
6 dollars (\$100) and shall not be levied more than once in any
7 fiscal year.

8 "(3) If the balance in the LP-Gas Recovery Fund
9 exceeds fifty thousand dollars (\$50,000) at the end of any
10 fiscal year, the administrator shall transfer the amount in
11 excess of fifty thousand dollars (\$50,000) to the LP-Gas
12 Research and Education Fund.

13 "(4) If the balance in the LP-Gas Recovery Fund is
14 insufficient to satisfy a duly authorized claim or portion of
15 a claim, the board shall, when sufficient money has been
16 deposited into the LP-Gas Recovery Fund, satisfy the unpaid
17 claims or portions thereof.

18 "(5) The sums received by the board pursuant to this
19 section shall be deposited into the State Treasury and held in
20 a special fund to be known as the "Liquefied Petroleum Gas
21 Recovery Fund", and shall be held by the board in trust for
22 carrying out the purposes of the LP-Gas Recovery Fund. These
23 funds may be invested by the State Treasurer in any
24 investments which are legal under the laws of this state. From
25 time to time, the administrator of the board may cause the
26 withdrawal of cash to be made from the LP-Gas Recovery Fund to
27 carry out the purposes of the LP-Gas Recovery Fund. Any

1 interest or other income from investments of the LP-Gas
 2 Recovery Fund shall be credited to the LP-Gas Recovery Fund.

3 ~~"(d) An applicant for any of the 10 permits shall~~
 4 ~~also file with the board evidence that he or she has in force~~
 5 ~~the listed insurance coverage written on standard contract~~
 6 ~~forms by an insurance company or companies qualified to do~~
 7 ~~business in the State of Alabama based upon those activities~~
 8 ~~listed below in which he or she is engaged. Proof of insurance~~
 9 ~~shall only be accepted on a form provided by the board. Proof~~
 10 ~~of liability insurance for all LP-gas cargo vehicles shall be~~
 11 ~~filed on a MCS.90 form or on a form acceptable to the board.~~

12 ~~"For Class A, B, and B-1 Permits; E Permits for per-~~
 13 ~~forming calibration, and inspections of LP-gas meters on site:~~

Insurance	Each	Each
	Occurrence	Person
Comprehensive automobile liability covering:		
(Bodily injury liability)	\$100,000	\$50,000
(Property damage liabil- ity)	\$100,000	
Comprehensive general li- ability covering:		
(Bodily injury liability)		
(Manufacturers and con-	100,000	

Insurance

Each

Each

Occurrence

Person

1 ~~tractors liability)~~
2 ~~(Owners and contractors~~
3 ~~protection liability)~~
4 ~~(Completed operations and~~
5 ~~products liability)~~
6 ~~For Class A, B, and B-1~~
7 ~~permit cargo vehicle as~~
8 ~~follows:~~

9 ~~To 3499 water gallon \$1 million~~
10 ~~capacity~~

11 ~~From 3500 water gallon \$5 million~~
12 ~~capacity~~

13 ~~For Class C, C-1, C-2, D,~~
14 ~~F, and F-1 permits; and E~~
15 ~~permits only for perform-~~
16 ~~ing in-shop repairs to~~
17 ~~LP gas meters:~~

18 ~~Comprehensive general li-~~
19 ~~ability covering:~~

20 ~~(Bodily injury liability) \$100,000~~

21 ~~(Manufacturers and con-~~
22 ~~tractors liability)~~

	Insurance	Each Occurrence	Each Person	Each Vehicle
1	(Owners and contractors	\$100,000		
2	protection liability)			
3	(Completed operations and			
4	products liability)			
5	For Permit C-1 LP-gas motor fuel carburetion only:			
6		Each Oc-	Each	Each Vehicle
		currence	Person	
7	Garage liability, one	\$100,000	\$50,000	\$50,000
8	Direct/primary to in-			
9	clude:			
10	comprehensive general			
11	liability			
12	(Bodily injury liabil-			
13	ity)			
14	(Manufacturers and			
15	contractors liability)			
16	(Owners and contrac-			
17	tors protection lia-			
18	bility)			
19	(Completed operations			

1 ~~and products liabil-~~
2 ~~ity)~~
3 ~~Garage liability, one~~
4 ~~Direct/primary to in-~~
5 ~~clude:~~
6 ~~garage keepers legal~~
7 ~~liability~~

\$50,000

8 ~~“(e) In lieu of filing with the board evidence that~~
9 ~~the insurance coverage, as outlined above, is in force, the~~
10 ~~holder of or applicant for a permit described herein may file~~
11 ~~with the board a good and sufficient surety bond executed by~~
12 ~~an insurance company qualified to do business in this state,~~
13 ~~in an amount sufficient to satisfy the requirements of~~
14 ~~subsection (d). The bond shall be payable to the State of~~
15 ~~Alabama and shall be conditioned to guarantee the payment of~~
16 ~~all damages which proximately result from any act of~~
17 ~~negligence on the part of any person or his or her agents,~~
18 ~~servants, or employees while engaging in any of the activities~~
19 ~~specified in this section. In lieu of the surety bond, any~~
20 ~~person may execute and file a good and sufficient personal~~
21 ~~bond, in the amount and conditioned as above specified, which~~
22 ~~personal bond shall be secured by bonds or other obligations~~
23 ~~of the State of Alabama or the United States government of~~
24 ~~equal value. Evidence of required insurance issued by an~~
25 ~~insurance company shall be filed on a form provided by the~~

1 board. When a surety bond, personal bond, or other obligations
2 of equal value is used in lieu of evidence of the required
3 insurance coverage, the surety bond, personal bond, or other
4 obligation of equal value shall remain on deposit in the State
5 Treasury in the Liquefied Petroleum Gas Board Personal Bond
6 Fund until at least 365 days have lapsed and there are no
7 claims against the bonds or obligations of equal value. The
8 administrator may issue a refund of the bonds or obligations
9 of equal value from the bond fund after proper application has
10 been submitted. When the administrator has notice of a claim
11 filed against the monies or other obligations of equal value
12 held in lieu of an insurance contract, the administrator shall
13 deliver to the court, interplead and deposit with the court
14 the amount of money or obligations held, the administrator and
15 the Liquefied Petroleum Gas Board shall be discharged from
16 liability as to any claim, and the action shall continue as
17 between the claimants of the monies or properties. If the
18 matter is adjudicated before 365 days have lapsed, the court
19 shall return any balance of any money or obligation to the
20 Liquefied Petroleum Gas Board Personal Bond Fund.

21 "(d) An applicant for any of the 10 permits shall
22 provide the board with evidence of minimum insurance coverage
23 by an insurance company or companies licensed to do business
24 in the state. Proof of insurance shall only be accepted on a
25 form approved by the Alabama Department of Insurance. In the
26 absence of proof of minimum insurance requirements, new
27 permits shall not be issued, and existing permits shall be

1 automatically cancelled. The permit may be reinstated if
2 current proof of insurance is provided within six months of
3 cancellation. After a permit has been cancelled for six
4 months, a new permit shall be applied for in the manner
5 previously set by the board. The minimum insurance
6 requirements are as follows:

7 "(1) Commercial general liability insurance for all
8 10 permits:

9 "a. One million dollars (\$1,000,000) - each
10 occurrence.

11 "b. One million dollars (\$1,000,000) - personal and
12 advertising injury.

13 "c. One million dollars (\$1,000,000) - general
14 aggregate.

15 "d. One million dollars (\$1,000,000) - products and
16 completed operations aggregate.

17 "(2) Commercial automobile liability insurance for
18 A, B, B-1, E, and F-1 permits:

19 "a. One million dollars (\$1,000,000) - combined
20 single limit.

21 "b. Five million dollars (\$5,000,000) - combined
22 single limit or in combination with umbrella coverage for
23 cargo vehicles with 3,500 gallon water capacity, or more.

24 "~~(f)~~ (e) Any state, county, or any incorporated
25 municipality or agency, or instrumentality thereof and any
26 industrial user who makes application and possesses a Class C
27 permit shall not be required to file with the board a surety

1 in cash, provided that all of the servicing, repairing,
2 adjusting, removing, and installing of LP-gas equipment,
3 appliances, and systems is only being accomplished on their
4 own LP-gas equipment, appliances, and systems.

5 ~~"(g) There is hereby created in the State Treasury a~~
6 ~~fund to be designated as the "Liquefied Petroleum Gas Board~~
7 ~~Personal Bond Fund" into which cash bonds or other obligations~~
8 ~~shall be deposited and from which the bonds shall be removed~~
9 ~~or refunded by the administrator at the appropriate time. The~~
10 ~~monies or other obligations in the bond fund shall not revert~~
11 ~~to the General Fund at the end of each state fiscal year, but~~
12 ~~shall be carried over into each subsequent state fiscal year~~
13 ~~and disbursed as provided in this section.~~

14 ~~"(h) (f)~~ Whenever a Class A, B, or B-1 permit
15 holder's company name has changed, all vehicles and equipment
16 assigned to the company shall be relettered with the new
17 company name as follows: By the annual renewal of the company
18 permit or within 180 days of the name change, whichever is
19 greater, provided, for good cause shown the board may extend
20 the date by official action. ~~Unmarked~~ LP-gas delivery cargo
21 vehicles or equipment placed in operation shall be lettered
22 and placarded as required by the applicable section of the
23 Code of Federal Regulations, Title 49, ~~within 90 days of the~~
24 ~~date the vehicle was first placed into operation within this~~
25 ~~state~~. Vehicles and equipment not lettered with the company
26 name within the described period shall be removed from service

1 until the proper company name is affixed to the vehicle or
2 equipment by the owner.

3 "~~(i)~~ (g) Counties, municipalities, or other local
4 entities are prohibited from requiring any further local
5 testing or other requirements of LP-gas servicemen, certified
6 by the LP-Gas Board, subject to the payment of any applicable
7 local privilege, license, or business fees or charges.

8 "§9-17-106.

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

15 "Every person required to renew permits and pay fees
16 who fails to do so by the delinquent date shall incur a
17 penalty of ten dollars (\$10) for each day he or she is
18 delinquent in complying with this section, and the penalty
19 shall be paid to the board before the issuance of the permit.
20 Delinquency shall be determined by the United States Postal
21 Service postmark when the date on the postmark falls on a
22 later date than the delinquent date.

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

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

14 "(c) Fees for Permit C. Every applicant for a Permit
15 C shall at the time of issuance of the permit by the board,
16 and annually thereafter, pay to the board a permit fee of
17 fifty dollars (\$50). The permit and fees shall be due January
18 1 and delinquent after January 31 of each year.

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

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

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

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

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

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

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

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

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

26 "(h) Fees for Permit F and F-1. Every applicant for
27 a Permit F and F-1 shall at the time of issuance of the permit

1 by the board, and annually thereafter, pay a permit fee of one
2 hundred dollars (\$100). The permit fees shall be due ~~January~~
3 July 1 and delinquent after ~~January~~ July 31 of each year.

4 Filling stations that are ~~owned~~ operated by Class A or Class
5 B-1 permit holders ~~or operated by agents of Class A or Class~~
6 ~~B-1 permit holders~~ are exempt from obtaining a Class F Permit.

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

20 "(i) In the event that an end user located within
21 the State of Alabama purchases or obtains liquefied petroleum
22 gas on which the permit fees required by this article have not
23 been paid, the end user shall be required to report to the
24 board the ~~cost of any~~ total gallons of liquefied petroleum gas
25 purchased during each period from October 1 to September 30
26 each year and shall pay to the board any fees that are due.

1 "All end users who purchase liquefied petroleum gas
2 in unit quantities of 5,000 gallons or more shall furnish the
3 board with written information concerning any purchases as may
4 be requested by the board.

5 "(j) Any supplier who sells liquefied petroleum gas
6 to any marketer or any end user in the state or who delivers
7 or causes to be delivered liquefied petroleum gas to any point
8 in the state, shall report to the board all sales by the
9 twentieth of the month following the month in which the sales
10 are made. Each supplier shall add to each individual sales
11 invoice an LP-gas fee not to exceed one-half of one cent per
12 gallon. This fee shall be assessed only once per gallon. Each
13 supplier shall remit to the board all money collected with the
14 required monthly report.

15 "The board may, from year to year, lower or raise
16 the LP-gas fee imposed by this article.

17 "At no time may the board raise the LP-gas fee
18 imposed by this article above the rate of one-half of one cent
19 per gallon.

20 "(k) Any permit holder who sells or otherwise
21 exchanges liquefied petroleum gas in the State of Alabama not
22 otherwise covered under this article shall report to the board
23 the number of gallons sold or exchanges by the twentieth of
24 the month following the month such sales or exchanges were
25 made. The permit holder shall submit to the board the LP-gas
26 fee as specified by the board not to exceed one-half of one
27 cent per gallon.

1 ~~"(l) Where a Class A or B-1 permit holder buys~~
2 ~~liquefied petroleum gas in the State of Alabama and pays the~~
3 ~~required fees on the liquefied petroleum gas and the Class A~~
4 ~~or B-1 permit holder sells the gas to end users outside the~~
5 ~~State of Alabama, the board may issue a credit or refund of~~
6 ~~the amount of the fee upon proper application to the board;~~
7 ~~provided, that the liquefied petroleum gas delivered to the~~
8 ~~out-of-state end user shall be transferred from the permit~~
9 ~~holder's storage facilities located within the State of~~
10 ~~Alabama. The application shall be submitted to the board no~~
11 ~~later than 30 days following the end of each fiscal quarter.~~
12 ~~Failure to make a timely application shall result in~~
13 ~~forfeiture of the fee.~~

14 ~~"(m) (l) Class A, B, B-1, C, and D permit holders~~
15 ~~who are licensed by this board to install gas piping shall be~~
16 ~~exempt from the requirement of Section 40-12-84 if they only~~
17 ~~install gas piping.~~

18 ~~"§9-17-107.~~

19 ~~"(a) The board shall require that every applicant~~
20 ~~for a Permit A have located within the State of Alabama a~~
21 ~~minimum of 30,000 (water gallon capacity) gallons storage~~
22 ~~capacity for liquefied petroleum gases. Class B-1 permit~~
23 ~~holders shall be required to have a minimum of 18,000 (water~~
24 ~~gallon capacity) gallons storage capacity of liquefied~~
25 ~~petroleum gas. However, persons who are valid agents of a~~
26 ~~Class A permit holder who sell only welding gases that qualify~~
27 ~~as liquid petroleum gas under Section 9-17-100, shall be~~

1 ~~exempt from the minimum storage requirements under this~~
2 ~~section.~~

3 "(b) If the 30,000 gallon (water capacity) or 18,000
4 gallon (water capacity) storage consists of more than one
5 container, then no storage container in any installation used
6 to meet this requirement of the law shall be a size less than
7 6,000 gallon (water capacity) and the storage capacity
8 required by this section of the law shall be within close
9 proximity to the area serviced and used by the applicant to
10 service his customers in the State of Alabama.

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

18 "(d) If the holder of a Permit A or Permit B-1
19 submits plans to the board for a storage plant that shall
20 remain his property even though the plant be at a customer's
21 site or if the plant to be built is to be used as part of his
22 own distribution system, then there will be no additional fees
23 for approval and inspection of this facility; however, if this
24 permit holder undertakes to install a bulk storage system of
25 5,000 gallons water capacity or more in single containers or
26 in multi-container installation of an aggregate of 5,000
27 gallons water capacity, he must obtain approval for the

1 location and for the plans from the administrator of the board
2 before construction is begun. When plans for the bulk storage
3 plant described above are submitted to the board for approval,
4 a fee of \$200.00 must be paid at the same time. This fee of
5 \$200.00 will cover examination of the plans and one site
6 inspection. An additional fee of \$50.00 for each inspection
7 trip to the site, that is required, shall be paid to the board
8 before final approval is given for the facility to be used.
9 These fees may be changed by the board.

10 "§9-17-109.

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

19 "(b) Every person subject to the fees imposed by
20 Section 9-17-106 shall keep and preserve suitable records of
21 all liquefied petroleum gas transactions subject to fees and
22 any other books or accounts necessary to determine the amount
23 of fees for which the person is liable under this article.
24 Those records shall be retained for a period of not less than
25 three years, and shall include the name, address of buyer,
26 date of sale, amount of gallons purchased, cost per gallon,
27 total amount of sale, and the amount of fees collected under

1 Section 9-17-106. The board, the board administrator, or
2 employees of the board may inspect, review, and copy or detain
3 any original records, notes, or documents either written or
4 electronically transcribed that are required to be kept by
5 this article or that relate to the selling, storing,
6 transporting, installing, servicing, testing, inspecting,
7 repairing, adjusting, and calibrating of LP-gas meters,
8 containers, tanks, or systems. Those records, notes, or
9 documents shall be turned over to the board at a location
10 designated by the board within 24 hours of the notice or
11 within a reasonable time in excess of 24 hours set by the
12 board or board administrator in cases of hardship.

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

26 "(2) Any person who reports but fails to pay the
27 fees levied in Section 9-17-106 within the time required by

1 this article shall pay, in addition to the fees, a penalty of
2 10 percent of the amount of the fees due, together with
3 interest thereon at the rate of one and one-half percent per
4 month or fraction thereof from the date at which the fees
5 levied in this section became due and payable. The penalty and
6 interest shall be assessed and collected as part of the fee.
7 The board, for good cause shown, may waive or remit the 10
8 percent penalty or any portion thereof.

9 "(3) As soon as practicable after the report is
10 filed, the board shall examine and ascertain the proper amount
11 of the fee as shown by the report. Any excess shall be
12 refunded to the person who filed the report or credited on any
13 deficiency previously due. If the amount paid is deficient, as
14 shown by the report, the board shall immediately notify the
15 persons of the deficiency and shall add a penalty of 10
16 percent of the amount due. If the deficiency is not paid
17 within 30 days from the date of notice, interest shall accrue
18 on the deficiency at the rate of one and one-half percent per
19 month or fraction thereof, from the date the fee was due and
20 shall be collected as part of the fee. The board, for good
21 cause shown, may waive or remit the penalty or any portion
22 thereof.

23 "(4) When the board ascertains from examining and
24 auditing the records of a person who collects the fee or from
25 other information that the amount or amounts previously paid
26 by the person for any period or periods is incorrect, the
27 board shall compute the correct amount of fees due. If it

1 appears that the amount paid is excessive, the excess shall be
2 refunded or credited on any deficiency previously due by the
3 person as required by this article. If it appears that the
4 amount paid is deficient, the board shall notify the person,
5 and shall demand payment. If payment is not paid within 15
6 days from date of demand, the board shall add a penalty of one
7 and one-half percent per month from the date the fees, or any
8 part thereof, becomes due. If the board finds a willful or
9 fraudulent intent to evade the fees due, it may assess a
10 penalty of 25 percent of the fees. The penalty shall be
11 reviewable on appeal.

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

26 "Any person who has duly appeared and protested an
27 assessment may appeal the final assessment of the board. A

1 hearing on the appeal shall be held at a time and place
2 designated by the board. No appeal shall lie in cases if the
3 person has failed to appear and protest.

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

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

23 "(e) LP-dealers holding Class A or Class B-1 permits
24 have special knowledge and expertise in performing
25 installations, maintenance, repairs, adjustments, and services
26 to liquefied petroleum gas appliances, ~~including ranges, water~~
27 ~~heaters, heaters, containers,~~ and LP-gas systems. To ensure

1 the safety of Alabama's consumers of LP-gas services, any
2 consumer who desires to install, repair, maintain, adjust, or
3 service any liquefied petroleum gas appliance, ~~including, but~~
4 ~~not limited to, ranges, water heaters, containers, heaters,~~
5 ~~and~~ or LP-gas systems, shall notify the LP-gas dealer who
6 regularly supplies such consumer with LP-gas of his or her
7 intention to employ an individual other than the LP-gas dealer
8 to perform such installation, maintenance, repair, adjustment,
9 or service being performed. The consumer shall afford the
10 LP-gas dealer with an opportunity to first install, repair,
11 maintain, adjust, or service the LP-gas appliance before
12 resorting to an individual other than his or her LP-gas dealer
13 who regularly supplies LP-gas.

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

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

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

6 "(f) No LP-gas dealer shall be subject to any award
7 of punitive or exemplary damages, except in those cases
8 falling within Sections 6-5-391 and 6-5-410, except upon a
9 showing by clear and convincing evidence of gross negligence
10 or willful or wanton misconduct.

11 "§9-17-121.

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

16 "(1) One listed wall-mounted LP-gas unvented room
17 heater equipped with an oxygen depletion safety shut-off
18 system may be installed in the bathroom of a residential one-
19 or two-family dwelling provided that the input rating shall
20 not exceed 6000 BTU per hour and combustion and ventilation
21 air is provided in accordance with ~~paragraph 6.1(b)~~ of the
22 National Fuel Gas Code, NFPA 54.

23 "(2) One listed wall-mounted LP-gas unvented room
24 heater equipped with an oxygen depletion safety shut-off
25 system may be installed in the bedroom of a residential one-
26 or two-family dwelling provided that the input rating shall
27 not exceed 10,000 BTU per hour and combustion and ventilation

1 air is provided as specified in ~~paragraph 6.1(b)~~ of the
2 National Fuel Gas Code, NFPA 54.

3 "§9-17-122.

4 "The following LP-gas room heaters may be installed
5 in a used manufactured home as follows:

6 "LP-gas listed vented room heaters equipped with a
7 100 percent safety pilot and a vent spill switch or LP-gas
8 listed unvented room heaters equipped with factory equipped
9 oxygen depletion safety shut-off systems may be installed in a
10 used stationary manufactured home (mobile home) but not in
11 sleeping quarters or bathrooms in the manufactured home
12 (mobile home) when the installation of the heater is not
13 prohibited by the appliance manufacturer and when the input
14 rating of the room heater does not exceed 20 BTU per hour per
15 cubic foot of space and combustion and ventilation air is
16 provided as specified in ~~Section 5.3~~ of the National Fuel Gas
17 Code, NFPA 54. All room heaters installed pursuant to this
18 section shall be securely anchored to the wall or floor.

19 "§40-17-161.

20 "(a) Every person owning and/or operating such
21 vehicles shall make application for and obtain an annual decal
22 from the Liquefied Petroleum Gas Board which shall serve as an
23 identification marker that ~~said~~ the flat fee has been paid.
24 Each decal issued by the Liquefied Petroleum Gas Board shall
25 not exceed a cost of \$5. The decal shall be in such form and
26 of such size as the Liquefied Petroleum Gas Board shall
27 prescribe. Such decal shall be attached or affixed to the

1 vehicle in the place and manner prescribed by the Liquefied
2 Petroleum Gas Board. The ~~first~~ decals provided for in this
3 chapter shall be issued ~~October 1, 1980,~~ for a term ~~of six~~
4 ~~months and thereafter the term of the decals~~ that shall begin
5 at April 1 of each year and expire on March 31 of the
6 following year. If any passenger automobile or truck is
7 acquired, liquefied petroleum gas or natural gas system
8 installed or vehicle put in operation after September 30 the
9 fee shall be one-half the flat fee stated in Section
10 40-17-160, or after December 31, the fee shall be one-fourth
11 of the flat fee stated in Section 40-17-160. Owners of all
12 newly converted vehicles must apply for the required decal as
13 provided for in Section 40-17-160 within 10 days of the
14 completion date in which the liquefied petroleum or natural
15 gas system was installed on the vehicle. Failure to submit an
16 application within the 10-day period requires the payment of
17 penalties as prescribed by Section 40-17-164.

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

1 "The board administrator and the board inspectors
2 shall have the power and authority to issue a uniform ~~traffic~~
3 nontraffic citation to any person violating the provisions of
4 this section. For the purpose of enforcing this section, there
5 shall be prima facie evidence that a connected, operational
6 liquefied petroleum gas carburetion system, which is part of a
7 dual or switchable gasoline-liquefied petroleum gas system,
8 has been in use, if there is liquefied petroleum gas in the
9 liquefied petroleum gas tank. Any violation of the provisions
10 of this section shall constitute a Class B misdemeanor as
11 defined in Title 13A, and shall be punished as provided by
12 law.

13 "§40-17-164.

14 "Any person who fails to obtain a current decal
15 within 30 days of the date ~~said~~ the decal is required as
16 provided in this chapter, shall be liable for a penalty of 20
17 percent of the fee ~~required at the date decal is purchased~~ in
18 addition to the fee. ~~Said~~ The penalty shall be paid at the
19 same time and in the same manner as the flat fee; and such
20 penalty shall be deposited by the Liquefied Petroleum Gas
21 Board in the State Treasury, to the credit of the Liquefied
22 Petroleum Gas Board Fund."

23 Section 2. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.