

## **BILL ANALYSIS**

Senate Research Center  
86R19308 BRG-F

H.B. 2714  
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Natural Resources & Economic Development  
4/22/2019  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

It has been suggested that regulation of liquefied petroleum gas activities could be streamlined to avoid overlap of regulation and to provide greater regulatory flexibility. H.B. 2714 seeks to address this by setting out provision relating to the registration of liquified petroleum gas container manufacturers and the regulation of liquefied petroleum gas licensees.

H.B. 2714 amends current law relating to the registration of liquefied petroleum gas container manufacturers and the regulation of liquefied petroleum gas licensees, and authorizes fees.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Railroad Commission of Texas (railroad commission) in SECTION 5 (Section 113.082, Natural Resources Code) of this bill.

Rulemaking authority previously granted to the railroad commission is modified in SECTION 3 (Section 113.081, Natural Resources Code) and SECTION 5 (Section 113.082, Natural Resources Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Subchapter D, Chapter 113, Natural Resources Code, to read as follows:

#### **SUBCHAPTER D. LICENSING AND REGISTRATION**

SECTION 2. Amends Subchapter D, Chapter 113, Natural Resources Code, by adding Section 113.080, as follows:

Sec. 113.080. DEFINITIONS. Defines "carrier," "portable cylinder exchange service," "retail and wholesale dealer," "testing laboratory," and "transport outfitter" for purposes of this subchapter."

SECTION 3. Amends Sections 113.081(a), (b), (c), (d), and (e), Natural Resources Code, as follows:

(a) Makes nonsubstantive changes and prohibits a person, unless otherwise stated in this chapter (Liquefied Petroleum Gas), from engaging in any of the following activities unless that person has obtained a license from the Railroad Commission of Texas (railroad commission) authorizing that activity:

(1) deletes existing text including the manufacture of containers among certain container activities and makes nonsubstantive changes;

(2) replaces a reference to liquefied petroleum gas with a reference to LP-gas; or

(3)–(4) makes conforming and nonsubstantive changes.

(b) Provides that the licensing requirements of Subsection (a) apply to a person other than a political subdivision who installs or services a motor fuel system or

mobile fuel system on a motor vehicle used in the transportation of the general public. Provides that subsections (a)(1) and (a)(2), rather than the provisions of Subsections (a)(1) and (a)(2) of this Section (License Requirement), do not apply to intermodal containers or intermodal portable tanks constructed in accordance with United States Department of Transportation specifications. Deletes existing text providing that the provisions of Subsection (a) of this section do not apply to a person who is not engaged in business as provided in Section 113.082 of this code. Deletes existing text providing that a person, except a political subdivision, is considered to be engaged in business as provided in Section 113.082 of this code if such person installs or services an LPG motor or mobile fuel system on a motor or mobile fuel system on a motor vehicle used in the transportation of the general public.

(c) Provides that the licensing requirements of Subsection (a) do not apply to a mobile home park operator who does not obtain any possessory rights to LP-gas products, and utilizes only LP-gas licensees in the installation and maintenance of the LP-gas containers and system. Deletes existing text providing that a mobile home park operator will not be deemed to be a person engaged in business as provided in Section 113.082 of this code if such mobile home park operator obtains no possessory rights to LP-gas products, and utilizes only LP-gas licenses in the installation and maintenance of LP-gas containers and system.

(d) Authorizes the railroad commission by rule to exempt journeymen or master plumbers licensed by the Texas State Board of Plumbing Examiners from the license requirements of Subsection (a), rather than from Section 113.082(a)(4) (relating to licensing for general installers and repairmen) of this code.

(e) Makes conforming changes to this subsection.

SECTION 4. Amends Subchapter D, Chapter 113, Natural Resources Code, by adding Section 113.0815, as follows:

Sec. 113.0815. REGISTRATION OF CONTAINER MANUFACTURERS AND FABRICATORS. (a) Prohibits a person from engaging in the manufacture or fabrication of containers for use in this state unless the person registers with the railroad commission in accordance with rules adopted by the railroad commission.

(b) Requires a registration under this section to be renewed annually.

SECTION 5. Amends Section 113.082, Natural Resources Code, as follows:

Sec. 113.082. New heading: CATEGORIES OF LP-GAS ACTIVITIES; FEES. (a) Requires the railroad commission by rule to establish license categories for LP-gas activities. Deletes existing text authorizing a prospective licensee in LPG to apply to the railroad commission for a license to engage in any one or more of certain categories of LPG activities.

(b) Requires the railroad commission by rule to establish reasonable application and original license fees and renewal fees for each type of license category, rather than each type of license, established under Subsection (a), rather than listed in this section.

SECTION 6. Amends Section 113.084(b), Natural Resources Code, to require a prospective licensee to submit the required application together with the original nonrefundable license fee established by the railroad commission under Section 113.082 for each type of license category for which an application is made.

SECTION 7. Amends Sections 113.087(c), (d), and (g), Natural Resources Code, as follows:

(c) Requires an individual who will be actively supervising operations that require a license under this chapter, other than a portable cylinder exchange service, at any outlet or location, to be required to provide good and sufficient proof through examination that the supervisor has a working knowledge of the safety requirements and penalties in this

chapter and the rules of the railroad commission which apply to that type of license, rather than requiring each individual who will be actively supervising those operations requiring any license under this chapter, other than a license under Section 113.082 (a) (16) (relating to licensing for portable cylinder exchange activities), at any outlet or location, as designated by the railroad commission, to be required to provide good and sufficient proof through examination that the supervisor has a working knowledge of the safety requirements and penalties in this chapter and the rules of the railroad commission which apply to that type of license. Makes conforming changes. Requires a license who provides portable cylinders to a license operating a portable cylinder exchange service to:

(1) makes no changes to this subdivision;

(2) provide a copy of the manual to each outlet or location of the licensee operating the portable cylinder exchange service, rather than under Section 113.082(a)(16); and

(3) provide training approved by the railroad commission regarding the contents of the manual to each individual who will be actively supervising operation of the portable cylinder exchange service, rather than actively supervising operations requiring a license under Section 113.082(a)(16) at each outlet or location.

(d) Requires the railroad commission, should the commission determine that an individual has a history of failure to comply with the requirements of this code or with the rules of the railroad commission, to promptly notify the individual in writing, of failure to qualify for LP-gas employee certification and the reasons therefore, rather than to promptly mail written notification of failure to qualify for quality for LP-gas employee certification and the reasons therefor to the registrant.

(g) Requires the railroad commission to have written notification of license denial and the reasons therefor prepared promptly and provided, rather than mailed, to both the representative and the license applicant. Requires written notice by the railroad commission, a written request for a hearing, and the public hearing itself to be governed by Section 113.091 (License Denial), rather than by Section 113.091 of this code.

SECTION 8. Amends Sections 113.089(a) and (c), Natural Resources Code, as follows:

(a) Requires the railroad commission, if application is made for a license by a retail and wholesale dealer, rather than if application is made for a license under Section 113.082(a)(5) (relating to licensing for retail and wholesale dealers), or for any other type of license specified by commission rule, in addition to other requirements, to have an actual inspection conducted of any and all facilities, bulk storage equipment, transportation equipment, and dispensing equipment of the applicant to verify satisfactory compliance with all current safety laws, rules, and practices.

(c) Prohibits a license for which an inspection under Subsection (a) is required from being issued until the inspection verifies the applicant to be in satisfactory compliance with all current safety laws, rules, and practices. Deletes existing text relating to prohibiting a license under Section 113.082(a)(5) and any other type of license specified by commission rule from being issued until the inspection under Subsection (a) of this section (Special Requirements for Licensing) verifies the applicant to be in satisfactory compliance with all current safety laws, rules, and practices.

SECTION 9. Amends Section 113.091(a), Natural Resources Code, as follows:

(a) Requires the railroad commission, if an applicant fails to meet the requirements for original or renewal licensing set out in this chapter, to promptly send notice to the applicant specifying the reason for the applicant's failure to qualify for license and advising the applicant of the right to request a hearing. Deletes existing text requiring the railroad commission, should an applicant fail to meet the requirements for original or renewal licensing set out in this chapter, to have written notification replaced promptly and mailed to the applicant and requiring the notice to specify certain information.

SECTION 10. Amends Sections 113.097(a), (b), (c), (d), (f), and (h), Natural Resources Code, as follows:

(a) Prohibits the railroad commission from issuing a license authorizing LP-gas activities, rather than activities under Section 113.082 of this code, or renewing an existing license unless the applicant for license or license renewal provides proof of required insurance coverage with an insurance carrier authorized to do business in this state as evidenced by a certificate of authority having been issued to the carrier by the Texas Department of Insurance or, if the applicant is unable to obtain coverage from such a carrier, provides, on approval of the railroad commission, proof of required insurance coverage issued by a surplus lines insurer that meets the requirements of Chapter 981 (Surplus Lines Insurance), Insurance Code, and rules adopted by the commissioner of insurance under that chapter.

(b) Makes a nonsubstantive change and prohibits a licensee from performing an LP-gas activity licensed by the commission, rather than any licensed activity under Section 113.082 of this code, unless the insurance coverage required by this chapter is in effect.

(c) Provides that except as provided in Section 113.099 (Statements in Lieu of Insurance Certificates), rather than Section 113.099 of this code, the types and amounts of insurance provided in Subsections (d) through (i), rather than Subsections (d) through (i) of this section, are required while engaged in an LP-gas activity licensed by the railroad commission, rather than engaged in any of the activities set forth in Section 113.082 of this code, or any activity incidental thereto.

(d) Requires a person licensed to transport LP-gas, rather than each licensee under Section 113.082(a)(3) (relating to licensing for carriers), (5), (8) (relating to licensing for cylinder dealers), or (10) (relating to licensing for severe station and cylinder facilities) to carry motor vehicle bodily injury and property damage liability coverage on each motor vehicle, including trailers and semitrailers, used to transport LP-gas. Makes a nonsubstantive change and requires the railroad commission to establish by rule a reasonable amount of coverage to be maintained, except that coverage is prohibited from being less than the amounts required as evidence of financial responsibility under Chapter 601 (Motor Vehicle safety Responsibility Act), Transportation Code.

(f) Requires a licensee, other than a licensee operating a portable cylinder exchange service, rather than each licensee other than a category "P" licensee, to acquire and maintain appropriate workers' compensation or coverage for its employees under policies of work-related accident, disability, and health insurance, including coverage for death benefits, from an insurance carrier authorized to provide coverage in this state, in the amounts required by the railroad commission.

(h) Requires a person registered under Section 113.0815 or licensed as a transport outfitter, carrier, retail and wholesale dealer, or testing laboratory, rather than a licensee under Section 113.082(a)(1) (relating to licensing for container manufacturers (fabricators), (2) (relating to licensing for transit outfitters), (3), (5), or (15) (relating to licensing for testing laboratory activities) to carry, as required by railroad commission rule completed operations or products liability insurance, or both, in a reasonable amount, based on the type or types of registered or licensed activities, rather than licensed activities.

SECTION 11. Amends Sections 113.099(a) and (d), Natural Resources Code, as follows:

(a) Authorizes a person licensed to transport LP-gas, rather than a licensee or an applicant for a license under Section 113.082(a)(3), (5), (8), or (10), that does not operate or contemplate the operation of a motor vehicle equipped with an LP-gas cargo container and does not transport or contemplate the transportation of LP-gas by vehicle in any manner, to make and file with the railroad commission a statement to that effect in lieu of filing a certificate of motor vehicle bodily injury and property damage insurance.

(d) Authorizes a person registered under Section 113.015 or licensed as a transport outfitter, carrier, retail and wholesome dealer, or testing laboratory rather than a licensee or an applicant for a license under Section 113.082 (a)(1), (2), (3), (5), or (15), that does

not engage in or contemplate engaging in any LP-gas operations which would be covered by completed operates or products liability insurance, or both, for a period of time to make and file with the railroad commission a statement to that effect in lieu of filing a certificate of insurance.

SECTION 12. Requires the railroad commission, not later than January 1, 2020, to adopt rules required by Chapter 113, Natural Resources Code, as amended by this Act.

SECTION 13. Effective date: September 1, 2019.