

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1281

5 By: Representative Richey
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE ARKANSAS PROPANE COUNCIL FOR THE
9 PROMOTION OF THE PROPANE INDUSTRY IN ARKANSAS; TO
10 PRESCRIBE MEMBERSHIP AND POWERS OF THE COUNCIL; TO
11 PROVIDE FOR AN ASSESSMENT ON ODORIZED PROPANE SOLD
12 SUBJECT TO APPROVAL BY REFERENDUM ON PROPANE
13 PRODUCERS AND MARKETERS VOTING IN REFERENDUM; TO
14 PROVIDE FOR HOLDING OF THE REFERENDUM; TO PROVIDE FOR
15 THE COLLECTION AND ADMINISTRATION OF THE ASSESSMENT
16 SHOULD THE ASSESSMENT BE APPROVED; TO PROVIDE FOR
17 REFUNDS, PENALTIES, AND THE DURATION OF THE
18 ASSESSMENT; AND FOR OTHER PURPOSES.
19
20

Subtitle

21 TO CREATE THE ARKANSAS PROPANE COUNCIL
22 FOR THE PROMOTION OF THE PROPANE INDUSTRY
23 IN ARKANSAS; AND TO CREATE A REFERENDUM.
24
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26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. Arkansas Code Title 15, Chapter 75, is amended to add an
30 additional subchapter to read as follows:

Subchapter 5 – Arkansas Propane Council

15-75-501. Purpose.

33 The purpose of this subchapter is to promote the growth and development
34 of the propane industry in Arkansas by research, promotion, and market
35 development and thereby promote the general welfare of the people of
36



1 Arkansas.

2
3 15-75-502. Arkansas Propane Council – Creation – Membership.

4 (a)(1) The Arkansas Propane Council is created to be domiciled in
5 Arkansas, to be composed of seven (7) members to be appointed by the Governor
6 as follows:

7 (A) Three (3) members representing propane retail dealers
8 in Arkansas who are holders of Liquefied Petroleum Gas Board class one
9 permits;

10 (B) Two (2) members representing Arkansas wholesale
11 dealers or importers of propane who are holders of Liquefied Petroleum Gas
12 Board class five or class eight permits, or both;

13 (C) One (1) member representing propane suppliers and
14 marketers of propane equipment who is a holder of a Liquefied Petroleum Gas
15 Board class nine permit; and

16 (D) One (1) member active in Arkansas in the propane
17 industry in general, who shall be appointed from the state at large.

18 (2) Each member of the council shall be appointed from a list of
19 potential members submitted to the Governor by the Board of Directors of the
20 Arkansas Propane Gas Association, Inc., under subsection (b) of this section.

21 (b)(1) Within ten (10) days after the effective date of this act, the
22 Arkansas Propane Gas Association, Inc., shall submit to the Governor a list
23 of names of two (2) persons for each of the positions on the council as
24 nominations and from which the Governor shall make the appointments.

25 (2) Initial terms for the members of the council who hold class
26 one permits and members who hold class five or class eight permits, or both,
27 shall be determined by lot with:

28 (A) One (1) member who holds a Liquefied Petroleum Gas
29 Board class one permit having an initial term of one (1) year;

30 (B) One (1) member who holds a Liquefied Petroleum Gas
31 Board class one permit having an initial term of two (2) years;

32 (C) One (1) member who holds a Liquefied Petroleum Gas
33 Board class one permit having an initial term of three (3) years;

34 (D) One (1) member who holds a Liquefied Petroleum Gas
35 Board class five or class eight permit, or both having an initial term of one
36 (1) year; and

1 (E) One (1) member who holds a Liquefied Petroleum Gas
2 Board class five or class eight permit, or both, having an initial term of
3 two (2) years.

4 (3) The initial term for the council member who holds a
5 Liquefied Petroleum Gas Board class nine permit shall be three (3) years.

6 (4) The initial term for the council member representing the
7 propane industry in general shall be three (3) years.

8 (5) After the initial term, each member selected shall serve a
9 term of three (3) years and until his or her successor is selected.

10 (6)(A) Each year after the terms created under this section and
11 not less than thirty (30) days before the expiration of the term, the
12 represented organization shall submit to the Governor two (2) nominees for
13 each position to be filled on the council from the represented organization.

14 (B) The Governor shall appoint a succeeding member to the
15 council from a list of two (2) nominees submitted by the represented
16 organization.

17 (7) If a vacancy occurs in an appointed position, the vacancy
18 shall be filled by the Governor for the unexpired term by an appointment made
19 in the same manner as the original appointment.

20 (c)(1) The members of the council shall meet immediately after their
21 appointment.

22 (2) At the initial meeting, the members shall:

23 (A) Organize the council; and

24 (B) Elect from the membership of the council a chair, a
25 vice chair, and a secretary-treasurer.

26 (3) The members of the council shall assign to the chair, the
27 vice-chair, and the secretary-treasurer either:

28 (A) The duties customarily exercised by such officers; or

29 (B) Duties specifically designated by the council.

30 (4) The council may adopt rules for its own government and for
31 the administration of the affairs of the council.

32
33 15-75-503. Arkansas Propane Council – Duties.

34 (a) The Arkansas Propane Council shall plan and conduct or cause to be
35 conducted a program of promotion, market development, research, and related
36 propane activities designed to enhance the propane industry in Arkansas.

1 (b) The council may use only the funds derived from the assessment
2 imposed under this subchapter for purposes of this section, including basic
3 administration expenses for the plan or programs developed through the plan.
4

5 15-75-504. Referendum election.

6 (a) Within ninety (90) days after the effective date of this act, the
7 Arkansas Propane Council shall cause an election to be held on the question
8 of the levy of an assessment of four-tenths (0.4) of one cent (1¢) per gallon
9 of odorized propane imported into Arkansas or produced in Arkansas to be sold
10 for any purpose in the state.

11 (b) The council shall:

12 (1) Establish places throughout the state at which the election
13 shall be held;

14 (2) Set the date for conducting the election in each county;

15 (3) Furnish ballots for the election; and

16 (4) Prescribe voting procedures for the election.

17 (c) Each holder of a Liquefied Petroleum Gas Board class one, class
18 three, class five, or class eight permit for the sale of propane in Arkansas
19 shall be eligible to vote in the election.

20 (d)(1) If a majority of the eligible voters vote for the levy of an
21 assessment of four-tenths (0.4) of one cent (1¢) per gallon of odorized
22 propane imported into Arkansas to be sold for any reason in the state, the
23 assessment shall apply to all propane sales made on and after a date
24 specified by the council.

25 (2) The council shall establish an applicability date under
26 subdivision (d)(1) of this section not later than ninety (90) days after
27 certification of the results of the election.

28 (3) The assessment under this section shall be a continuing levy
29 until either:

30 (A) Terminated by the council; or

31 (B) Another election is held at which a majority of the
32 eligible voters vote against the levy.

33 (e)(1) When a petition containing the signatures of twenty-five
34 percent (25%) of the holders of Liquefied Petroleum Gas Board permits is
35 filed with the council requesting that the question of continuing the
36 assessment of four-tenths (0.4) of one cent (1¢) per gallon on odorized

1 propane imported into Arkansas or produced in Arkansas to be sold in Arkansas
2 for any reason be submitted to a vote, the council shall cause an election on
3 the question to be held within ninety (90) days after the filing of a
4 petition.

5 (2) The election shall be conducted in the same manner as the
6 initial election held on the question of the levy of the assessment.

7 (3) If a majority of the eligible voters voting at the election
8 vote against the levy of the assessment, the assessment shall not be levied
9 unless the levy is approved at a subsequent election called by the council.

10
11 15-75-505. Owner and seller responsibilities.

12 (a)(1) The owner or seller of propane at the time of odorization,
13 whether within or without the state, or at the time of import or manufacture
14 of odorized propane within or into Arkansas shall make the assessment
15 required under § 15-75-504 based upon the volume in gallons of odorized
16 propane placed into commerce in Arkansas, whether or not the owner or seller
17 is located in Arkansas or is a resident of Arkansas.

18 (2) An owner or seller of propane at the time of odorization,
19 whether within or without the state, or at the time of import or manufacture
20 of odorized propane within or into Arkansas shall monthly report and remit to
21 the Director of the Department of Finance and Administration assessments
22 collected under this subchapter, in the manner and on forms as prescribed by
23 the director.

24 (b) If a conflict arises as to the person that shall make the
25 assessment, the owner of the propane at the time of odorization of the
26 propane imported into Arkansas or manufactured in Arkansas and placed into
27 commerce in Arkansas shall make the assessment.

28 (c) Propane stored outside Arkansas and ultimately sold in or used or
29 placed into commerce in Arkansas is subject to this subchapter.

30
31 15-75-506. Director of the Department of Finance and Administration -
32 Rules.

33 The Director of the Department of Finance and Administration shall
34 adopt rules:

35 (1) Regarding records to be kept by propane sellers concerning
36 reporting and remittance of the assessment levied under this subchapter;

1 (2) Prescribing forms upon which the reports are to be made;

2 (3) Requiring the reports to contain such information as the
 3 director considers necessary to assure the proper enforcement of this
 4 subchapter; and

5 (4) Establishing the efficient collection of the assessment
 6 levied under this subchapter.

7
 8 15-75-507. Records.

9 (a) A propane seller shall make available for inspection at any
 10 reasonable time upon written request by the Director of the Department of
 11 Finance and Administration or any authorized agent or representative of the
 12 director records maintained under this subchapter or under rules of the
 13 director adopted under this subchapter.

14 (b) If the director requires information to administer this
 15 subchapter, a propane seller shall submit reports or other documents
 16 containing information the director deems necessary for the efficient
 17 collection of the assessment imposed under this subchapter.

18 (c) The director may cause an authorized agent or representative to
 19 enter at reasonable times upon the premises of a propane seller to examine or
 20 cause to be examined by the authorized agent or representative records that
 21 may pertain to the payment of the assessment or to the enforcement of this
 22 subchapter.

23
 24 15-75-508. Assessments and penalties – Deposit.

25 (a) The Director of the Department of Finance and Administration shall
 26 deposit all assessments and penalties collected under this subchapter into
 27 the State Treasury as special revenues.

28 (b) After deducting three percent (3%) of the assessments and
 29 penalties for credit to the Constitutional Officers Fund and the State
 30 Central Services Fund, the Treasurer of State shall credit the assessments
 31 and penalties collected under this subchapter to the Arkansas Propane Council
 32 Fund.

33
 34 15-75-509. Reports – Penalties.

35 (a)(1) A propane seller who fails to file a report or pay an
 36 assessment within a time required and set by the Arkansas Propane Council

1 shall forfeit to the Director of the Department of Finance and Administration
2 a penalty of five percent (5%) of the assessment determined to be due, plus
3 one percent (1%) for each month of delay or fraction of a month of delay
4 after the first month after the report was required to be filed or the
5 assessment became due.

6 (2) The penalty shall be paid to the director and shall be
7 disposed of by him or her under § 15-75-508.

8 (b) The director shall collect the penalties levied under this section
9 together with the delinquent assessment by the following methods:

10 (1) By voluntary payment by the person liable;

11 (2) By legal proceedings; and

12 (3) By injunctive relief to enjoin any seller owing an
13 assessment or penalty, or both, from operating his or her business or
14 engaging in business as a propane seller until the delinquent assessment or
15 penalty, or both, are paid.

16 (c) A person required to pay an assessment or penalty, or both, under
17 this section who refuses to allow full inspection of the record relating to
18 the liability of the person for the assessment or penalty, or both or who
19 hinders, delays, or prevents an inspection:

20 (1) Upon conviction is guilty of a violation and shall be
21 punished by a fine not to exceed five hundred dollars (\$500); and

22 (2) Shall not sell propane for transport into Arkansas until all
23 amounts due under this section are paid in full.

24
25 15-75-510. Transportation of odorized propane.

26 (a) Odorized propane transported into Arkansas and ultimately used or
27 consumed in Arkansas by any means or for any purpose in Arkansas is subject
28 to this subchapter, including odorized propane transported into Arkansas:

29 (1) By rail, pipeline, over-the-road-long-haul truck transport,
30 or retail truck for delivery without being stored; or

31 (2) By truck transport and contained in a prefilled cylinder.

32 (b) Odorized propane transported across Arkansas and not stored, used,
33 consumed, or placed into commerce in Arkansas is exempt from this subchapter.

34
35 15-75-511. Pricing – Antitrust pass-through prohibited.

36 The price of propane shall be determined by market forces consistent

1 with antitrust laws, and this subchapter does not allow a pass-through to
2 consumers at any level of the assessment determined by the Arkansas Propane
3 Council under this subchapter.

4
5 SECTION 2. Arkansas Code Title 19, Chapter 6, Subchapter 8, is
6 amended to add an additional section to read as follows:

7 19-6-829. Arkansas Propane Council Fund.

8 (a) There is created on the books of the Treasurer of State, the
9 Auditor of State, and the Chief Fiscal Officer of the State a special revenue
10 fund to be known as the "Arkansas Propane Council Fund".

11 (b)(1) Except as provided under § 15-75-508, moneys collected under §
12 15-75-501 et seq. shall be deposited into the State Treasury to the credit of
13 the fund as special revenues.

14 (2) The fund shall also consist of any other revenues authorized
15 by law.

16 (c) The fund shall be used by the Arkansas Propane Council for
17 purposes established in § 15-75-501 et seq.

18
19 SECTION 3. Arkansas Code § 19-6-301, concerning the enumeration of
20 special revenues, is amended to add an additional subdivision to read as
21 follows:

22 (253) That portion of assessments and penalties collected under § 15-
23 75-501 et seq. as provided under § 15-75-508.