

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1471 w/CS Department of Agriculture and Consumer Services
SPONSOR(S): Bowen
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2462

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture	11 Y, 0 N w/CS	Kaiser	Reese
2) Finance & Tax			
3) Appropriations			
4)			
5)			

SUMMARY ANALYSIS

HB 1471 addresses licensing issues within two divisions of the Department of Agriculture and Consumer Services (department). Within the Division of Standards, the bill creates a new license category and redefines a current category for liquid petroleum (LP) gas dealers to provide a better "fit" for companies currently operating under several licenses. In addition, during the 2000 legislative session, laws addressing qualifiers and creating master qualifiers were established. Since that time, the department has identified some "gray" areas relating to the management and regulation of these categories. Those "gray" areas are clarified in this legislation. The bill also includes provisions for revocation, suspension, or denial of qualifier/master qualifier status as well as criteria for making such determination for individuals who display unsafe work practices. In addition, the bill clarifies the intent of the law that only one licensed location may be qualified by an individual. The bill revises the requirements for reporting "uncontrolled ignition" so that only accidents which result in death, personal injury, or property damage exceeding \$1,000 are reported to the department. The bill also provides that bulk storage facilities must have loading and unloading provisions solely for the license holder and be operated and maintained in compliance with Chapter 527, F.S. for the duration of the license. The bill clarifies statutory language regarding civil and administrative fines and allows for the issuance of a warning letter for a first violation. The bill removes the restrictions on term limits, allowing members of the Florida Propane Gas Education, Safety and Research Council to serve consecutive terms, if reappointed.

Within the Division of Consumer Services, the bill revises the registration requirements for motor vehicle repair shops to be biennial, rather than annual. In addition, the bill revises the criteria the department uses to determine whether to waive the bond, letter of credit, or certificate of deposit requirement if a seller of travel meets the criteria outlined in s. 559.929, F.S. The bill prohibits the term of ballroom dance studio contracts from being longer than 36 months and restricts the renewal of said contracts to 60 days or less before the preceding contract expires. In addition, the bill no longer requires moving companies to submit social security numbers when registering with the department. However, the bill does require the moving service to name the department as a certificate holder on the insurance certificate, as well as notify the department at least 30 days in advance of any changes in insurance coverage. And lastly, regulations regarding Arabian horse racing are revised.

HB 1471 has a very minimal fiscal impact (\$190). In addition, it does not appear to adversely affect counties or municipalities, nor does it appear to have any constitutional issues.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1471a.ag.doc
DATE: March 20, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|--|------------------------------|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input checked="" type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

Lower Taxes

The new license category will have varying impacts on the industry. The companies that will fall within this new category are currently licensed in other areas, which are not necessarily specific to their functions. Of these companies, approximately half (19 companies) will see an increase of \$100 in their annual licensing fee and the other half will experience a decrease of \$175 in the annual licensing fee.

B. EFFECT OF PROPOSED CHANGES:

Liquid Petroleum Gas

The number of companies engaged in the activity of selling liquefied petroleum (LP) gas for industrial application such as welding, forklifts and other similar types of applications is increasing. These companies, in an attempt to be licensed for the sale of LP gases, have found that under existing law there is no "neat fit" for the activities performed in any of the existing areas. This has resulted in them obtaining many different category licenses depending on the activities at each location, and many times they are receiving licenses for activities they do not provide. In addition, some of these licenses require capital investment for equipment not needed for the services performed. HB 1471 establishes a new license category (Category V) specific to these companies and their activities. Establishing this new category, as well as redefining Category II, enables these companies to be appropriately licensed and qualified under Florida law for the activities they are performing. In addition, identifying them by the appropriate category will facilitate the Department of Agriculture and Consumer Services (department) in the inspection process. The legislation also establishes a license and fee schedule for the new category. The definitions of category I liquefied petroleum gas dealer, LP gas installer, and specialty installer were amended to reflect their ability to install and service natural gas equipment.

During the 2000 legislative session, laws addressing qualifiers and creating master qualifiers were established. Since that time, the department has identified some "gray" areas relating to the management and regulation of these categories that need to be clarified. HB 1471 revises the requirements for certification as a master qualifier to include a minimum of one year's work experience in the gas industry. In addition, the bill allows 60 days in which to replace a master qualifier if other trained qualifiers are retained on staff, and 90 days until the license is revoked if the master qualifier is not replaced. Providing a longer time period to replace the master qualifier, when other trained qualifiers are on staff, offers a more realistic timeframe for companies. Master qualifiers are managers by definition, and due to background checks, criminal checks, fingerprinting, and other state and federal requirements, many times the hiring process cannot be completed in the time period currently provided. The bill also requires the departing qualifier/master qualifier, as well as the licensed company, to notify the department upon vacating one of these positions.

The bill includes provisions for revocation, suspension, or denial of qualifier/master qualifier status and criteria for making such determination in the event of unsafe acts by these individuals. In addition, the bill clarifies the intent of the law that only one licensed location may be qualified by an individual.

The bill revises the requirements for reporting "uncontrolled ignition" so that only accidents which result in death, personal injury, or property damage exceeding \$1,000 are reported to the department. Because the definition of "uncontrolled ignition" is so broad, the department receives reports of actions which occur within the normal parameters for servicing and installing appliances. In addition, the bill clarifies the intent of the law regarding bulk storage. Existing language can be interpreted to mean that any unused storage facility cannot be leased by a company for bulk storage. The bill also provides that bulk storage facilities must have loading and unloading provisions solely for the license holder and be operated and maintained in compliance with Chapter 527, F.S. for the duration of the license. The bill clarifies statutory language regarding civil and administrative fines and allows for the issuance of a warning letter for a first violation.

Currently, the statutes require a diverse representation of industry on the Florida Propane Gas Education, Safety and Research Council. However, due to the number of mergers and buy-outs within the industry, the pool of prospective members has grown significantly smaller. The bill removes the restrictions on term limits, allowing members to serve consecutive terms, if reappointed.

Motor Vehicle Repair Shops

Currently, all motor vehicle repair shops are required to register annually with the department and provide copies of their estimate and invoice forms with each application. HB 1471 revises the registration requirements to be on a biennial basis. The shops will continue to submit copies of their estimate and invoice forms with their initial applications and thereafter only when the forms are amended. In addition, the department is given rule-making authority to stagger the registrations over a two-year period to accommodate the biennial registration. This authority will expire on June 30, 2005.

Sellers of Travel

The bill revises the criteria the department uses to determine whether to waive the bond, letter of credit, or certificate of deposit requirement if a seller of travel meets the criteria outlined in s. 559.929, F.S.

Dance Studios

Current law allows ballroom dance studio contracts to be perpetual. Many senior citizens are lured into signing multiple contracts before their current contract expires. The bill prohibits the term of these contracts from being longer than 36 months and restricts the renewal of said contracts to 60 days or less before the preceding contract expires. In addition, ballroom dance studios are prohibited from directly or indirectly representing that contracts are perpetual or for an indefinite term. This will increase consumer protection for Florida's elderly population.

Moving Services

Legislation passed during the 2002 session, requires state agencies to delete or black out all social security numbers to provide for consumer protection. The statutes currently require moving companies registering with the department to provide certain information, which includes social security numbers of its owners or corporate officers. Since the department has no need for the social security numbers, this legislation removes the need to provide them to the department, thereby eliminating the unnecessary task of deleting or blacking them out.

Current statutes require moving services to provide evidence of insurance coverage to the department prior to obtaining a registration certificate. However, instances have occurred whereby the moving service, once the certificate was obtained, cancelled the insurance coverage, thereby putting the consumer at risk. HB 1471 requires the moving service to name the department as a certificate holder on the insurance certificate, as well as notify the department at least 30 days in advance of any changes in insurance coverage.

Arabian Horse Racing

This legislation allows licensed entities which are permitted to race Arabian horses, and meeting certain other criteria, to conduct any activity authorized by law and being conducted within 35 miles of its facility by any other entity licensed pursuant to Chapter 550, F.S.

C. SECTION DIRECTORY:

Section 1: Amends s. 527.01, F.S., revising the definition of qualifier; revising the definition of category II liquefied petroleum gas dispenser; and defining category V liquefied petroleum gases dealer for industrial uses only.

Section 2: Amends s. 527.02, F.S., requiring licensure for category V liquefied petroleum gases dealer for industrial uses only; providing licensing fees for dealers; providing application fees and renewal fees for retesting and requalification of cargo tanks; creating s. 527.0201, F.S., reorganizing existing subsections of statute; providing for examination of category V liquefied petroleum gases dealer for industrial uses only; revising requirements for application of examination; providing for reexamination for expired qualifier status; providing no person may act as a qualifier for more than one licensed location; requiring a master qualifier applying for certification to provide documentation of a minimum of one year's work experience in the gas industry; requiring a vacancy of a qualifier or master qualifier in a business organization to be reported by the departing qualifier or master qualifier and the licensed company; clarifying provisions regarding suspension of a license in the event that a licensed company no longer possesses a designated qualifier; providing procedure regarding category I liquefied petroleum gas dealers or LP gas installers who no longer possess a master qualifier but employ a category I liquefied petroleum gas dealer or LP gas installer qualifier; and, authorizing the department to deny, refuse to renew, suspend or revoke any qualifier card or master qualifier certificate for specified causes.

Section 3: Amends s. 527.06, F.S., conforming a cross-reference.

Section 4: Amends s. 527.065, F.S., revising conditions of notification of the department by liquefied petroleum gas licensees of liquefied petroleum gas-related accidents.

Section 5: Amends s. 527.11, F.S., revising requirements of persons engaging in distribution of liquefied petroleum gas for resale to domestic, commercial, or industrial consumers.

Section 6: Amends s. 527.13, F.S., authorizing the department to impose administrative penalties and suspend or revoke a qualification for violation of the provisions of Chapter 527, F.S.; and, authorizing the department to issue a warning letter for first violation.

Section 7: Amends s. 527.22, F.S., revising terms of membership of the Florida Propane Gas Education, Safety, and Research Council.

Section 8: Amends s. 559.904, F.S., revising registration requirements for motor vehicle repair shops; revising requirements for calculating registration fees; revising requirements for a renewal application for registration; and, revising requirements relating to local occupational license for motor vehicle repair shops.

Section 9: Amends s. 559.929, F.S., revising security requirements for sellers of travel.

Section 10: Amends s. 501.143, F.S., providing stipulations on contracts for ballroom dance studio services.

Section 11: Amends s. 507.03, F.S., revising registration requirements for moving services.

Section 12: Amends s. 507.04, F.S., revising requirements for insurance coverage for moving services.

Section 13: Amends s. 570.382, F.S., revising regulations relating to Arabian horse racing.

Section 14: Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Revenues will be affected negatively initially. However, it is anticipated that the creation of the new licensing category will generate more licensing in this niche industry, which will offset the small revenue loss. There are approximately 19 companies currently licensed "out of class", who, if put into the new category, would by paying \$175 less annually (\$3325); and, approximately 18 companies that would be paying \$100 more (\$1,800). The negative impact to the department would be \$1,525 the first year and is not expected to continue into the future budget cycles.

2. Expenditures:

The estimated costs associated with this bill are those which relate to changing the Bureau of Liquefied Petroleum Gas Inspections' database to provide for the new licensing category and for tracking of qualifier histories. The costs associated with this (personnel time for creating this category in the database) are \$42.00. The costs for a mail out, notifying the appropriate industry parties, is estimated at \$148.00, for a total cost to the Department of Agriculture and Consumer Services of \$190.00.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The new license category will have varying impacts on the industry. The companies that will fall within this new category are currently licensed in other areas that are not necessarily specific to their functions. Of these companies, approximately half will experience a \$100 increase in their annual licensing fee; and, the other half will see a \$175 decrease in the annual fee.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This legislation has no adverse effect on counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The Department of Agriculture and Consumer Services is given rule-making authority in order to stagger the registrations for motor vehicle repair shops over a two-year period to accommodate the biennial registration. This authority will expire on June 30, 2005.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 20, 2003, the Committee on Agriculture adopted a strike-all amendment to HB 1471. The differences between the bill as filed and the strike-all are:

- Several drafting errors were corrected.
 - On line 108, subsection (2) was moved down one sentence, providing a more logical separation. Line 32 was removed. It was not part of the original draft.
 - On line 402, a comma was omitted between the words “install” and “own”.
 - On line 405, clarification was provided regarding the bulk storage filling plant.
 - On line 411, “and warning letters” was omitted from the tag line.
 - On line 487, “and renewal” was not stricken.
 - On line 592, Paragraph h was omitted.
- The definitions of category I liquefied petroleum gas dealer, LP gas installer, and specialty installer were amended to reflect their ability to install and service natural gas equipment.
- The department is given rule-making authority in order to stagger the registrations for motor vehicle repair shops over a two-year period. This authority will expire on June 30, 2005.
- Moving services are no longer required to submit social security numbers on registration forms.
- The department is required to be named as a certificate holder on certificates of insurance for moving services and notified at least 30 days in advance of changes in insurance coverage.
- Regulations relating to Arabian horse racing are revised.