

LIQUEFIED PETROLEUM AND CARBONIC GAS CONTAINERS

House Bill 4900 (Substitute H-1)
Sponsor: Larry Julian
Committee: Regulatory Reform

**House Bill 5003 with committee
amendment**
Sponsor: Larry Julian
Committee: Criminal Justice

Second Analysis (2-5-04)

THE APPARENT PROBLEM:

Public Act 241 of 1959 prohibits an individual from filling or refilling a liquefied petroleum gas (commonly propane) or carbonic gas container with liquefied petroleum gas, carbonic gas, or any other gas or compound without written authorization from the owner of the container. The act also specifies that an individual who violates its provisions is guilty of a misdemeanor.

Under rule 32 (R. 29.4032) of the Department of Environmental Quality's rules on the storage and handling of liquefied petroleum gases, the transfer of liquefied petroleum gas out of or into a stationary container can only be carried out with authorization and only by qualified persons trained in the proper handling and operating procedures. The rule also requires the person conducting the transfer of liquefied petroleum to notify the owner of the container two working days before the transfer. The rule specifies that a person who transfers liquefied petroleum gas shall complete a training program and receive certification from the National Propane Gas Association's employee training certification program that includes handling, operating, and certified test of liquefied petroleum gas. Legislation has been introduced that would increase the criminal sanctions for violations and bring the provisions of the act and related administrative rules into conformity.

THE CONTENT OF THE BILL:

House Bill 4900 would amend Public Act 241 of 1959 (MCL 429.112 and 113) to make a violation of the act a felony (rather than a misdemeanor) punishable by imprisonment for up to two years

and/or a fine up to \$1,000 per violation. The bill would prohibit a person from transferring liquefied petroleum gas, carbonic gas, or any other gas or compound into or out of a stationary liquefied petroleum gas or carbonic gas container without written authorization from the owner of the container provided at least two business days prior to the transfer. In addition, the bill would prohibit an individual from transferring liquefied petroleum gas, carbonic gas, or any other gas or compound, unless that individual is trained in the proper procedures in accordance with Department of Environmental Quality rules.

House Bill 5003 would make a corresponding amendment to Chapter XVII of the Code of Criminal Procedure (MCL 777.14d) to specify in the sentencing guidelines that a violation of Public Act 241 of 1959 would be a class G crime against the public order with a maximum term of imprisonment of two years. House Bill 5003 is tie-barred to House Bill 4900, and would take effect on July 1, 2004.

BACKGROUND INFORMATION:

In developing its rules pertaining to the storage and handling of liquefied petroleum gases, the DEQ adopted, by reference and with amendments, the National Fire Protection Association's publication entitled, "NFPA 58 LP-Gas Code, 1998 edition".

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that the penalty for improper transfers of LPG gas would be increased from a misdemeanor punishable by up to 90 days in

jail and a fine of up to \$100 to a felony punishable by imprisonment for up to two years and a fine of up to \$1,000. Depending on how the bill affected prosecutorial charging decisions, it could increase costs to the state through costs of probation supervision or incarceration. Felony probationers are the responsibility of the state, while misdemeanor probationers are a local responsibility. The bill also would authorize a term in state prison for an offender, although, as a practical matter, a prison term generally would be imposed for this offense only if the offender had an extensive prior record. (HFA floor analysis dated 2-2-04)

ARGUMENTS:

For:

The bill brings greater consistency between the current statute and administrative rules. In addition, by increasing the penalty for violating the provision of the act from a misdemeanor to a felony, the bill increases consumer protection. In some instances, it is alleged, propane gas companies have been known to unlawfully fill a tank because the cost they charge for filling the tank greatly exceeds the rather small amount of the penalty.

POSITIONS:

The Michigan Propane Gas Association supports the bill. (1-20-04)

Analyst: M. Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.