

LexisNexis (TM) New Jersey Annotated Statutes

*** This section is current through New Jersey 216th Legislature ***
*** First Annual Session, 2014 c. 10 and J.R. 1 ***

TITLE 21. EXPLOSIVES AND FIREWORKS
SUBTITLE 1. EXPLOSIVES GENERALLY
CHAPTER 1B. LIQUEFIED PETROLEUM GASES

GO TO THE NEW JERSEY ANNOTATED STATUTES ARCHIVE DIRECTORY

N.J. Stat. § 21:1B-1 (2014)

§ 21:1B-1. Definitions

As used in this chapter:

"Board" means the Liquefied Petroleum Gas Education and Safety Board;

"Bulk plant" means intermediate establishments or points of storage and distribution, as distinguished from terminals and refineries, from which liquefied petroleum gas is distributed to retail dealers and consumers;

"Commissioner" means the Commissioner of Community Affairs;

"Department" means the Department of Community Affairs; and

"Liquefied petroleum gas" means any material which is composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, butanes (normal butane or isobutane), and butylenes.

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N.J. Stat. § 21:1B-2 (2014)

§ 21:1B-2. Regulations concerning transporting of liquefied petroleum gases

(a) The Superintendent of State Police shall coordinate the implementation and enforcement of regulations adopted pursuant to P.L. 1983, c. 401 (*C. 39:5B-25 et seq.*) concerning the transporting of liquefied petroleum gases as required for compliance with the Code of Federal Regulations, Title 49.

(b) The Commissioner of Community Affairs shall make, promulgate and enforce regulations setting forth minimum standards covering the design, construction, location, installation and operation of equipment for storing, handling or utilizing liquefied petroleum gases at public utility establishments operated by public utilities as defined in section 48:2-13 of the Revised Statutes and at marine terminals, pipeline terminals, refineries and manufacturing establishments, which shall not be deemed to include bulk plants, and specifying the odorization of said gases and the degree thereof prior to sale by the manufacturer.

(c) All regulations promulgated under subsection (a) or (b) of this section shall be adopted only after a public hearing thereon and shall be such as are reasonably necessary for the protection of the health, welfare and safety of all persons and shall be in substantial conformity with the generally accepted and applicable standards of safety concerning the same subject matter.

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N.J. Stat. § 21:1B-3 (2014)

§ 21:1B-3. Installation, maintenance of equipment

All equipment shall be installed and maintained in a safe operating condition and in conformity with the rules and regulations adopted under section 2 of this act [C.21:1B-2]; however, the inspection of propane gas equipment installations inside of predominantly residential buildings and those above ground installations which are on the outside of predominantly residential buildings may be made and approved or disapproved by the Construction Code official of the respective municipality pursuant to the standards promulgated by the Commissioner of Community Affairs. For purposes of this act "predominantly residential" means and includes buildings in which people reside or dwell as distinguished from buildings which are used entirely for commercial or business purposes. The term shall also include any building having 51% or more of its total floor space devoted to dwelling purposes.

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N.J. Stat. § 21:1B-4 (2014)

§ 21:1B-4. Containers and receptacles

No person, firm or corporation, other than the owner and those authorized by the owner so to do, shall sell, fill, refill, deliver or permit to be delivered, or use in any manner any liquefied petroleum gas container or receptacle for any gas, compound, or for any other purpose whatsoever.

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N.J. Stat. § 21:1B-5 (2014)

§ 21:1B-5. Violations, penalties

It shall be unlawful for any person, firm, association, or corporation, on and after the effective date of this act to violate any of the provisions hereof or of the regulations made pursuant hereto. Any person, firm, association, or corporation violating any of the provisions of this act, or said regulations made hereunder shall be liable to a penalty of not less than \$ 50.00 nor more than \$ 500.00 to be collected in a summary proceeding in any municipal court or in the Superior Court. Each day during which any violation of this act or of said regulations continues shall constitute a separate and distinct offense.

The Superintendent of State Police and the Commissioner of Community Affairs, according to the jurisdiction granted under section 2 of P.L. 1950, c. 139 (*C. 21:1B-2*), are hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount, in the discretion of the Superintendent of State Police and the Commissioner of Community Affairs, respectively, as may appear appropriate and equitable under all of the circumstances.

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N.J. Stat. § 21:1B-6 (2014)

§ 21:1B-6. Additional penalties

In addition to the penalties provided in section 5 of P.L. 1950, c. 139 (*C. 21:1B-5*), any person, firm or corporation who shall violate or remain in violation of any of the provisions hereof, or of any rule or regulation promulgated hereunder, may be directed and ordered by the Superintendent of State Police or the Commissioner of Community Affairs, according to their respective jurisdiction under section 2 of P.L. 1950, c. 139 (*C. 21:1B-2*), by notice in writing setting forth the facts relating to such violation to correct said violation. Such notice in writing shall be served personally upon said person or mailed by registered or certified mail to the principal office of said person, firm or corporation or if an individual or individuals, to his or their residence. If such order is not complied with and such violation not corrected within 20 days of the date of service of said order, the Superintendent of State Police or Commissioner of Community Affairs, as the case may be, may institute an action in the Superior Court for injunctive relief or an abatement. The court may proceed in the action in a summary manner or otherwise, and shall make such determination thereof as shall seem necessary and proper to correct the violation and secure enforcement of said order of the Superintendent of State Police or Commissioner of Community Affairs, as the case may be. Every such order issued by the Superintendent of State Police or Commissioner of Community Affairs under the provisions of this section shall be prima facie evidence of the truth of the matter and things therein set forth.

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N.J. Stat. § 21:1B-7 (2014)

§ 21:1B-7. Ordinances not to conflict with regulations

No municipality or other political subdivision shall adopt or enforce any ordinance or regulation in conflict with the provisions of this act or with the regulations promulgated under section two of this act.

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N.J. Stat. § 21:1B-8 (2014)

§ 21:1B-8. Declaration of necessity

The State of New Jersey hereby finds, determines and declares that this act is necessary for the immediate preservation of the public peace, health and safety.

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N.J. Stat. § 21:1B-9 (2014)

§ 21:1B-9. Transfer of powers, functions and duties of superintendent of state police to commissioner of labor and industry

All the powers, functions and duties heretofore exercised by the Superintendent of State Police pursuant to the provisions of P.L.1950, c. 139, as amended (*C. 21:1B-1 et seq.*) and pertaining to the design, construction, location, installation and operation of equipment for storing, handling and utilizing liquefied petroleum gases at places of employment are hereby transferred to and vested in the Commissioner of Labor and Industry.

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N.J. Stat. § 21:1B-10 (2014)

§ 21:1B-10. Rules, regulations and orders of superintendent of state police; continuance

a. All rules and regulations promulgated by the Superintendent of State Police relating to such places of employment shall remain in full force and effect until they are superseded by rules and regulations promulgated by the Commissioner of Labor and Industry.

b. All orders of the Superintendent of State Police shall be continued in full force and effect unless modified or disapproved by the Commissioner of Labor and Industry; provided, however, that no order may be modified or disapproved with regard to an installation in existence on the effective date of this act except where such installation creates a hazardous condition that endangers the public.

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N.J. Stat. § 21:1B-11 (2014)

§ 21:1B-11. Method of transfer

The transfer directed by this act shall be effected pursuant to the "State Agency Transfer Act," P.L.1971, c. 375 (C. 52:14D-1 et seq.).

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N.J. Stat. § 21:1B-12 (2014)

§ 21:1B-12. Liquefied Petroleum Gas Education and Safety Board

a. There is created within the Department of Community Affairs the Liquefied Petroleum Gas Education and Safety Board. This board shall be advisory in nature to the Commissioner of Community Affairs. The board shall be composed of 11 members: three public members appointed by the Governor on a nonpartisan basis, two of whom shall be professional firefighters or other fire safety professionals; one representative from the environmental community and one representative from a consumer group, appointed by the Governor; five members who are representatives of the liquefied petroleum gas industry appointed by the Governor upon recommendation by the Board of Directors of the New Jersey Propane Gas Association; and one representative of a gas public utility involved in the storage and distribution of liquefied petroleum gas, appointed by the Governor. Members of the board who are representatives of the liquefied petroleum gas industry and the gas public utility shall have been legal residents of the State for at least the five years prior to their appointment and have been actively engaged in the liquefied petroleum gas industry for at least five years. Members of the board shall be appointed within 90 days after the effective date of this act.

Of the members first appointed as public members, one shall serve for one year, one shall serve for two years, and one shall serve for three years. Of the members representing the liquefied petroleum gas industry, the first appointed shall serve for one year, the next appointed shall serve for two years, and the remainder shall serve for three years. The representative from the environmental community, the representative of the gas public utility and the representative from a consumer group shall each serve for three years.

Upon expiration of the terms of the members first appointed, the terms of all members shall be three years. Members may be reappointed. Members shall serve until a replacement is appointed. Vacancies shall be filled in the same manner as the original appointment. In the case of a vacancy occurring otherwise than by expiration of term, that vacancy shall be filled only for the unexpired term.

b. The board shall elect a chairman and vice-chairman from among its members at its first regular meeting each calendar year. All meetings of the board shall be held on a prescribed date, at least quarterly, and also at any time a majority of the board members requests a meeting in writing to the board chairman. Any six members shall constitute a quorum for the transaction of business. The board may adopt bylaws governing its procedures and method of operation.

c. The members of the board shall not receive compensation, but may receive an allowance for travel expenses as determined by the commissioner to the extent such funds are made available.

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N.J. Stat. § 21:1B-13 (2014)

§ 21:1B-13. Powers of board

- a. The Liquefied Petroleum Gas Education and Safety Board is empowered to:
- (1) recommend to the Commissioner of Community Affairs for proposal and adoption rules and regulations:
 - (a) setting forth minimum general standards for the design, construction, location, installation, and operation of equipment for storing and handling of liquefied petroleum gas, and
 - (b) governing liquefied petroleum gas distributors and installers and the installation of liquefied petroleum gas systems, carburetion systems and fueling systems;
 - (2) make recommendations to the Commissioner of Community Affairs concerning:
 - (a) civil penalties for violation of any rule or order made under chapter 1B of Title 21 of the Revised Statutes;
 - (b) the method and form of application for a liquefied petroleum gas license or certification; the investigation of the experience, reputation and background of applicants; the issuance, suspension, revocation or denial of licenses; and the procedures for conducting hearings in connection with the applications for, or revocation of, licenses and certifications, including, but not limited to, compelling the attendance of witnesses by subpoena, requiring the production of any records or documents determined by it to be pertinent to the subject matter of the hearing, and applying to the Superior Court for an order citing any applicant or witness for contempt, and for failure to attend, testify or produce required documents;
 - (c) procedures for the suspension or revocation of licenses or certifications and the denial of license or certification renewals when the applicant or licensee has been guilty of acts of conduct harmful to either the safety or protection of the public;
 - (d) the content of and procedures for administering examinations of every license applicant to determine the responsibility, ability, knowledge, experience or other qualification of the applicant for a license;
 - (e) competency testing for all employees and subcontractors of licensees engaged in transporting or dispensing liquefied petroleum gas or installing, servicing, or repairing a liquefied petroleum gas system, fueling system or carburetion system, as set forth in this chapter;
 - (f) procedures for the granting of exemptions from department rules and regulations to accommodate local needs as it determines to be in the best interest of the safety of the public or the persons using liquefied petroleum gas systems or services;
 - (g) the development of programs and projects, including educational programs for public safety officials and consumers, concerning safety and environmental advantages of liquefied petroleum gas, and safety and educational programs for the public and for industrial and emergency response personnel;
 - (h) procedures for entering into contracts or agreements to implement the provisions of this act; and

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(i) a schedule of the fees and charges to cover all costs of administration of the provisions of this act as provided in this act.

b. (1) The board shall keep accurate records and minutes of all meetings, which shall be open to public inspection at all reasonable times, and keep a public record of all applications for licenses, and licenses issued by it.

(2) The board shall periodically report to the Commissioner of Community Affairs concerning its transactions and recommendations and the Commissioner of Community Affairs shall submit to the Governor a biennial report before September 1 of each even numbered year, covering its transactions during the biennium ending June 30 of that year, including a complete statement of the receipts and expenditures of the board during that period.

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N.J. Stat. § 21:1B-14 (2014)

§ 21:1B-14. Areas over which board has no authority

The board shall have no authority governing:

- a. The production, refining or manufacture of liquefied petroleum gas;
- b. The storage, sale, or transportation of liquefied petroleum gas by pipeline or railroad tank car by a pipeline company, producer, refiner or manufacturer;
- c. The equipment used by a pipeline company, producer, refiner or manufacturer in a producing, refining or manufacturing process, or in the storage, sale or transportation by pipeline or railroad tank car;
- d. Any deliveries of liquefied petroleum gas to another person at the place of production, refining, or manufacturing;
- e. Regulations and requirements of liquefied petroleum gas transporters as covered by the Code of Federal Regulations, Title 49, as administered pursuant to P.L. 1983, c. 401 (*C. 39:5B-25 et seq.*); or
- f. Those portions of the liquefied petroleum gas system operated by a gas public utility that are under the regulation and requirements of Title 49 of the Code of Federal Regulations, as administered by the New Jersey Board of Public Utilities.

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N.J. Stat. § 21:1B-15 (2014)

§ 21:1B-15. Recommendations to commissioner of assessments; disbursement; Liquefied Petroleum Gas Education and Safety Board Fund

a. The board may recommend to the Commissioner of Community Affairs the level of an assessment to be levied on liquefied petroleum gas and the commissioner shall determine the level and may levy the assessment. The initial assessment shall be no greater than one-fifteenth of one cent per gallon. Thereafter, annual assessments shall be sufficient to cover the costs of the plans and programs developed by the board and approved by the commissioner, and the cost of administering the responsibilities of the department established pursuant to this act. The assessment shall not exceed one-half cent per gallon of odorized propane. The assessment may not be raised by more than one-tenth of one cent per gallon annually.

The owner of liquefied petroleum gas immediately prior to odorization shall be responsible for the payment of the assessment on the volume of liquefied petroleum gas at the time of import or odorization, whichever is earlier.

The commissioner may by regulation establish an alternative means for the department to collect the assessment if another means is found to be more efficient and effective. The commissioner may by regulation establish a late payment charge and rate of interest to be imposed on any person who fails to remit to the department any amount due.

b. Pending disbursement pursuant to a program, plan or project, the State Treasurer may invest funds collected through assessments and any other funds received by the department, only in obligations of the United States or any agency thereof, in general obligations of any state or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

c. There is established a "Liquefied Petroleum Gas Education and Safety Board Fund" as a non-lapsing revolving fund within the Department of Community Affairs. All assessments, fees and penalties collected by the department under this chapter shall be deposited in the fund. The fund shall be administered by the Commissioner of Community Affairs and shall be used exclusively to defray all expenses incurred by the department in operation of the board and the administration of the department's responsibilities under this act.