

FEB 27 2003
APPROPRIATIONS

HOUSE FILE 348
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 133)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of liquefied petroleum gas
2 storage tanks, making an appropriation, and providing
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 348

1 Section 1. NEW SECTION. 101.41 DEFINITIONS.

2 As used in this division, unless the context otherwise
3 requires:

4 1. "Liability policy" means an owner's policy of liability
5 insurance for a tank site or activities associated with the
6 tank site, provided as proof of financial responsibility, and
7 issued by an insurance carrier duly authorized to transact
8 business in this state, to or for the benefit of the person
9 named in the liability policy as insured.

10 2. "Liquefied petroleum gas storage tank" means a tank,
11 which is used to contain liquefied petroleum gas, and which
12 has a capacity of seven thousand gallons or more in volume.

13 3. "Operator" means a person in control of, or having
14 responsibility for, the daily operation of a liquefied
15 petroleum gas storage tank.

16 4. "Owner" means all of the following:

17 a. In the case of a liquefied petroleum gas storage tank
18 in use on or after July 1, 2003, a person who owns the
19 liquefied petroleum gas storage tank used for the storage,
20 use, or dispensing of liquefied petroleum gas.

21 b. In the case of a liquefied petroleum gas storage tank
22 in use before July 1, 2003, but no longer in use on or after
23 that date, a person who owned the tank immediately before the
24 discontinuation of its use.

25 5. "State fire marshal" means the state fire marshal or
26 the state fire marshal's designee.

27 6. "Tank site" means a liquefied petroleum gas storage
28 tank or grouping of liquefied petroleum gas storage tanks
29 within close proximity of each other located within a facility
30 for the purpose of storing liquefied petroleum gas.

31 Sec. 2. NEW SECTION. 101.42 LIABILITY POLICIES.

32 1. A liability policy shall designate, by explicit
33 description or by appropriate reference, all tank sites with
34 respect to which coverage is to be provided and shall insure
35 the person named in the policy against loss from liability

1 imposed by law for damages arising out of the ownership,
2 maintenance, or use of liquefied petroleum gas storage tanks
3 on an insured tank site.

4 2. A liability policy shall state the name and address of
5 the named insured, the coverage afforded by the policy, the
6 policy period, and the limits of liability which shall be not
7 less than one million dollars per tank site, and shall contain
8 an agreement or be endorsed that insurance is provided in
9 accordance with the coverage required in this division in
10 respect to bodily injury and death or property damage, or
11 both, and is subject to all the provisions of this division.

12 3. Any insurance policy that grants the coverage required
13 for a liability policy may also grant any lawful coverage in
14 excess of or in addition to the coverage specified for a
15 liability policy and such excess or additional coverage shall
16 not be subject to the provisions of this division. With
17 respect to an insurance policy that grants such excess or
18 additional coverage, the term "liability policy" shall apply
19 only to that part of the coverage which is required by this
20 division.

21 4. A liability policy may provide for the prorating of the
22 insurance thereunder with other valid and collectible
23 insurance. The requirements for a liability policy may be
24 fulfilled by the policies of one or more insurance carriers
25 which policies together meet such requirements. Any binder
26 issued pending the issuance of a liability policy shall be
27 deemed to fulfill the requirements for such a policy.

28 Sec. 3. NEW SECTION. 101.43 REPORT OF EXISTING AND NEW
29 TANKS -- REGISTRATION FEE -- STICKER -- PENALTY.

30 1. The owner or operator of a liquefied petroleum gas
31 storage tank existing on or before July 1, 2003, shall
32 register the liquefied petroleum gas storage tank by notifying
33 the state fire marshal in writing by May 1, 2004, of the
34 existence of each tank. The notice shall also specify the
35 age, manufacturer's serial number, size, type, location, and

1 uses of the liquefied petroleum gas storage tank and shall be
2 in a form specified by the state fire marshal.

3 2. An owner or operator who brings into use a liquefied
4 petroleum gas storage tank after July 1, 2003, shall register
5 the liquefied petroleum gas storage tank by notifying the
6 state fire marshal in writing within thirty days of the
7 existence of the tank. The notice shall also specify the age,
8 manufacturer's serial number, size, type, location, and uses
9 of the liquefied petroleum gas storage tank and shall be in a
10 form specified by the state fire marshal.

11 3. The registration notice provided by an owner or
12 operator to the state fire marshal under subsection 1 or 2
13 shall be accompanied by a fee of twenty-five dollars for each
14 liquefied petroleum gas storage tank included in the notice
15 and the owner or operator shall furnish proof of financial
16 responsibility for the period of registration as provided in
17 section 101.44. The registration of all liquefied petroleum
18 gas storage tanks registered under subsection 1 or 2 shall be
19 renewed on an annual basis. All moneys collected pursuant to
20 this subsection shall be retained by the department of public
21 safety, deposited in the liquefied petroleum gas storage tank
22 registration fund established in section 101.50, and
23 appropriated for the use of the state fire marshal in
24 performance of the duties set forth in this division. An
25 annual registration renewal fee of twenty-five dollars for
26 each liquefied petroleum gas storage tank applies to all
27 owners or operators who filed a registration notice with the
28 state fire marshal pursuant to subsection 1 or 2.

29 4. A person who sells or constructs a tank intended to be
30 used as a liquefied petroleum gas storage tank shall notify
31 the purchaser of the tank in writing of the registration and
32 notification requirements of this section applicable to the
33 purchaser.

34 5. It is unlawful to make, cause to be made, or receive a
35 deposit of liquefied petroleum gas in a liquefied petroleum

1 gas storage tank which has not been registered pursuant to
2 subsection 1 or 2.

3 6. The state fire marshal shall furnish the owner or
4 operator of a liquefied petroleum gas storage tank with a
5 numbered registration sticker for each liquefied petroleum gas
6 storage tank registered with the state fire marshal. The
7 owner or operator shall affix the sticker next to or in close
8 proximity to the float or rotary gauge of each registered
9 liquefied petroleum gas storage tank.

10 7. It is the tank owner's or tank operator's duty to
11 comply with registration requirements. A late registration
12 penalty of fifty dollars is imposed in addition to the
13 registration fee for a tank registered after the required
14 date. The penalty shall be applicable for each year in which
15 the tank is operated without registration.

16 8. A liquefied petroleum gas storage tank that is subject
17 to regulation under or registration with either the federal
18 department of transportation or state department of
19 transportation, or both, is exempt from the registration
20 requirements of this division.

21 Sec. 4. NEW SECTION. 101.44 FINANCIAL RESPONSIBILITY.

22 1. A person required to register a liquefied petroleum gas
23 storage tank pursuant to section 101.43 shall furnish proof of
24 financial responsibility for damages occurring after the
25 effective date of the proof, arising out of the ownership,
26 maintenance, or use of the liquefied petroleum gas storage
27 tank. The proof shall be given through the existence of a
28 liability policy with liability limits of not less than one
29 million dollars per incident and two million dollars in the
30 aggregate.

31 2. Proof of financial responsibility shall be filed with
32 the state fire marshal in accordance with rules adopted by the
33 fire marshal pursuant to chapter 17A. Proof of financial
34 responsibility shall be in the form of a written certificate
35 of any insurance carrier duly authorized to do business in

1 this state certifying that there is in effect a liability
2 policy for the benefit of the person required to furnish proof
3 of financial responsibility. The certificate shall give the
4 effective date of such liability policy, which date shall be
5 the same as the effective date of the certificate, and shall
6 designate by explicit description the liquefied petroleum gas
7 storage tanks and tank sites covered.

8 3. When an insurance carrier has certified a liability
9 policy under this division, the certified liability policy
10 shall not be canceled or terminated until at least ten days
11 after a notice of cancellation or termination of the certified
12 liability policy is filed in the office of the state fire
13 marshal, except that a liability policy subsequently procured
14 and certified with the same or greater coverage shall, on the
15 effective date of its certification, serve to terminate the
16 liability policy previously issued.

17 4. Except as otherwise provided in this section, the state
18 fire marshal shall, upon request, consent to the immediate
19 cancellation of a liability policy for which a written
20 certificate has been filed pursuant to this chapter as proof
21 of financial responsibility in any of the following events:

22 a. In the event of the death of an individual on whose
23 behalf such proof was filed.

24 b. In the event of transfer of ownership of the liquefied
25 petroleum gas storage tank or tank site that is insured by the
26 liability policy, upon substitution of such proof on behalf of
27 the new owner.

28 5. The state fire marshal shall not consent to the
29 cancellation of a liability policy in the event an action for
30 damages based upon a liability covered by such liability
31 policy is then pending or a judgment upon any such liability
32 is unsatisfied, or in the event the person who has filed a
33 written certificate for such liability policy has within one
34 year immediately preceding such request been involved in an
35 accident involving a registered liquefied petroleum gas

1 storage tank covered by the liability policy resulting in
2 injury or damage to the person or property of others. An
3 affidavit of the person filing the written certificate as to
4 the nonexistence of such facts, or that the person filing the
5 written certificate has been released from all of such
6 person's liability, or has been finally adjudicated not to be
7 liable, for such injury or damage, shall be sufficient
8 evidence thereof in the absence of evidence to the contrary in
9 the records of the state fire marshal.

10 6. A person whose liability policy, when required under
11 this chapter, has been canceled or terminated shall not
12 display the person's registration stickers.

13 Sec. 5. NEW SECTION. 101.45 RULES.

14 The state fire marshal shall adopt rules pursuant to
15 chapter 17A necessary to administer this division. The rules
16 may provide for fees for inspections completed pursuant to
17 this division. The fees shall be reasonably related to costs
18 incurred by the state fire marshal in completing inspections.
19 Revenue generated from the fees shall be deposited in the
20 liquefied petroleum gas storage tank registration fund
21 established in section 101.50.

22 Sec. 6. NEW SECTION. 101.46 STATE FIRE MARSHAL -- DUTIES
23 AND POWERS.

24 The state fire marshal shall do all of the following:

25 1. Conduct inspections and, when warranted, investigations
26 in response to complaints received or otherwise as determined
27 necessary by the state fire marshal. An inspection or
28 investigation shall be conducted subject to the procedures
29 provided in subsection 4. For purposes of developing a rule,
30 maintaining an accurate inventory, or enforcing this division,
31 the state fire marshal may:

32 a. At reasonable times, enter an establishment or other
33 place where a liquefied petroleum gas storage tank is located.

34 b. Inspect and obtain samples of liquefied petroleum gas
35 and conduct monitoring or testing of the tanks, associated

1 equipment, contents, or surrounding soils or air. An
2 inspection shall be commenced and completed with reasonable
3 promptness.

4 (1) If the state fire marshal obtains a sample, prior to
5 leaving the premises the state fire marshal shall give the
6 owner, operator, or agent in charge a receipt describing the
7 sample obtained and, if requested, a portion of each sample
8 equal in volume or weight to the portion retained. If the
9 state fire marshal causes the sample to be analyzed, a copy of
10 the results of the analysis shall be furnished promptly to the
11 owner, operator, or agent in charge.

12 (2) Documents or information obtained from a person
13 pursuant to this subsection shall be available to the public
14 except as provided in this subparagraph. Upon a showing
15 satisfactory to the state fire marshal that public disclosure
16 of documents or information, or a particular part of the
17 documents or information to which the state fire marshal has
18 access under this subsection, would divulge commercial or
19 financial information entitled to protection as a trade
20 secret, the state fire marshal shall consider the documents or
21 information or the particular portion of the documents or
22 information confidential.

23 2. Maintain an accurate inventory of liquefied petroleum
24 gas storage tanks.

25 3. Take any action allowed by law which, in the judgment
26 of the state fire marshal, is necessary to enforce or secure
27 compliance with this division or any rule adopted pursuant to
28 this division.

29 4. a. Conduct investigations of complaints received
30 directly or referred by other agencies, and conduct other
31 investigations deemed necessary. While conducting an
32 investigation, the state fire marshal may enter at any
33 reasonable time in and upon any private or public property to
34 investigate any actual or possible violation of this division
35 or the rules adopted under this division. However, the owner,

1 operator, or agent in charge shall be notified of such
2 entrance.

3 b. If the owner, operator, or agent in charge of any
4 property refuses admittance, or if prior to such refusal the
5 state fire marshal demonstrates the necessity for a warrant,
6 the state fire marshal may make application under oath or
7 affirmation to the district court of the county in which the
8 property is located for the issuance of a search warrant.

9 c. In the search warrant application the state fire
10 marshal shall state that an inspection of the premises is
11 mandated by the laws of this state or that a search of certain
12 premises, areas, or things designated in the application may
13 result in evidence tending to reveal the existence of
14 violations of public health, safety, or welfare requirements
15 imposed by statutes, rules, or ordinances established by the
16 state or a political subdivision of the state. The search
17 warrant application shall describe the area, premises, or
18 thing to be searched, give the date of the last inspection if
19 known, give the date and time of the proposed inspection,
20 declare the need for such inspection, recite that notice of
21 the desire to make an inspection has been given to affected
22 persons and that admission was refused if that be the fact,
23 and state that the inspection has no purpose other than to
24 carry out the purpose of the statute, rule, or ordinance
25 pursuant to which inspection is to be made. If an item of
26 property is sought by the state fire marshal, it shall be
27 identified in the application.

28 d. If the district court is satisfied from an examination
29 of the search warrant applicant, of other witnesses, and of
30 the application allegations regarding the existence of grounds
31 for the application, or that there is probable cause to
32 believe in their existence, the court may issue a search
33 warrant.

34 e. In making inspections and searches pursuant to the
35 authority of this division, the state fire marshal must

1 execute the warrant as follows:

2 (1) Within ten days after its date of issuance.

3 (2) In a reasonable manner, and any property seized shall
4 be treated in accordance with the provisions of chapters 808
5 and 809.

6 (3) Subject to any restrictions imposed by the statute,
7 rule, or ordinance pursuant to which inspection is made.

8 Sec. 7. NEW SECTION. 101.47 VIOLATIONS -- ORDERS.

9 1. If substantial evidence exists that a person has
10 violated or is violating a provision of this division or a
11 rule adopted under this division, the state fire marshal may
12 issue an order directing the person to cease and desist in the
13 practice which constitutes the violation and to take
14 corrective action as necessary to ensure that the violation
15 will cease. The order may also include an appropriate
16 administrative penalty pursuant to section 101.48. The person
17 to whom the order is issued may appeal the order as provided
18 in chapter 17A and the rules of the department of public
19 safety and the state fire marshal. On appeal, an order of the
20 state fire marshal may be affirmed, modified, or vacated.

21 2. However, if it is determined by the state fire marshal
22 that an emergency exists respecting any matter affecting or
23 likely to affect the public health, the state fire marshal may
24 issue any order necessary to terminate the emergency without
25 notice and without hearing. The order is binding and
26 effective immediately and until the order is modified or
27 vacated at an administrative hearing or by a district court.

28 3. The state fire marshal may request the attorney general
29 to institute legal proceedings pursuant to section 101.48.

30 Sec. 8. NEW SECTION. 101.48 PENALTIES -- BURDEN OF
31 PROOF.

32 1. A person who violates this division or a rule or order
33 adopted or issued pursuant to this division is subject to a
34 civil penalty not to exceed one hundred dollars for each day
35 during which the violation continues, up to a maximum of ten

1 thousand dollars. However, if a person violates this division
2 by failing to register a liquefied petroleum gas storage tank
3 under section 101.43, and if the tank is registered within
4 thirty days after the state fire marshal issues a cease and
5 desist order pursuant to section 101.47, subsection 1, the
6 civil penalty under this section shall not accrue. The civil
7 penalty is an alternative to a criminal penalty provided under
8 this section.

9 2. A person who knowingly fails to register under section
10 101.43 or makes a false statement, representation, or
11 certification in a record, report, or other document filed or
12 required to be maintained under this division, or violates an
13 order issued under this division, is guilty of an aggravated
14 misdemeanor.

15 3. The attorney general, at the request of the state fire
16 marshal, shall institute any legal proceeding, including an
17 action for an injunction, necessary to enforce the penalty
18 provisions of this division or to obtain compliance with the
19 provisions of this division or rules adopted or order issued
20 pursuant to this division. In any action, previous findings
21 of fact of the state fire marshal after notice and hearing are
22 conclusive if supported by substantial evidence in the record
23 when the record is viewed as a whole.

24 4. In all proceedings with respect to an alleged violation
25 of this division or a rule adopted or order issued by the
26 state fire marshal pursuant to this division, the burden of
27 proof is upon the state fire marshal.

28 5. If the attorney general has instituted legal
29 proceedings in accordance with this section, all related
30 issues which could otherwise be raised by the alleged violator
31 in a proceeding for judicial review under section 101.49 shall
32 be raised in the legal proceedings instituted in accordance
33 with this section.

34 Sec. 9. NEW SECTION. 101.49 JUDICIAL REVIEW.

35 Except as provided in section 101.48, subsection 5,

1 judicial review of an order or other action of the state fire
2 marshal pursuant to this division or rule adopted pursuant to
3 this division may be sought in accordance with chapter 17A.
4 Notwithstanding chapter 17A, petitions for judicial review may
5 be filed in the district court of the county in which the
6 alleged offense was committed or the final order was entered.

7 Sec. 10. NEW SECTION. 101.50 LIQUEFIED PETROLEUM GAS
8 STORAGE TANK REGISTRATION FUND.

9 1. A liquefied petroleum gas storage tank registration
10 fund is created as a separate fund in the state treasury under
11 the control of the department of public safety, division of
12 fire protection. Interest, fees, and other moneys earned by
13 the fund shall be deposited in the fund. Moneys credited to
14 the fund shall be administered by the department of public
15 safety and expended by the division of fire protection for the
16 purposes of administering this chapter, including the
17 employment of personnel.

18 2. Notwithstanding section 8.33, moneys credited to the
19 fund which remain unobligated or unexpended at the close of
20 the fiscal year shall not revert to the general fund of the
21 state.

22 EXPLANATION

23 This bill relates to the regulation of liquefied petroleum
24 gas storage tanks.

25 The bill requires an owner or operator of a liquefied
26 petroleum gas storage tank existing on or before July 1, 2003,
27 to register the tank by notifying the state fire marshal in
28 writing by May 1, 2004, of the existence of each tank. The
29 bill requires an owner or operator who brings into use a
30 liquefied petroleum gas storage tank after July 1, 2003, to
31 register the tank by notifying the state fire marshal in
32 writing within 30 days of the existence of the tank. The bill
33 requires a \$25 registration fee for each tank and requires
34 proof of financial responsibility for the period of
35 registration to accompany the notice. The bill requires a

1 renewal of the registration on an annual basis. The bill
2 provides that all registration fees collected shall be
3 retained by the department of public safety, deposited in a
4 liquefied petroleum gas storage tank registration fund, and
5 appropriated for the use of the state fire marshal in
6 performance of the duties set forth in the bill.

7 The bill requires a person who sells or constructs a tank
8 intended to be used as a liquefied petroleum gas storage tank
9 to notify the purchaser of the tank in writing of the state
10 fire marshal registration and notification requirements
11 applicable to the purchaser. The bill provides that it is
12 unlawful to make, cause to be made, or receive a deposit of
13 liquefied petroleum gas in a liquefied petroleum gas storage
14 tank which has not been registered with the state fire
15 marshal. The bill provides that the state fire marshal shall
16 furnish the owner or operator of a liquefied petroleum gas
17 storage tank with a numbered registration sticker for each
18 liquefied petroleum gas storage tank registered with the state
19 fire marshal. The bill provides that a late registration
20 penalty of \$50 is imposed in addition to the registration fee
21 for a tank registered after the required date. The bill
22 provides that a liquefied petroleum gas storage tank which is
23 subject to regulation by or registration with either the
24 federal department of transportation or state department of
25 transportation, or both, is exempt from the state fire marshal
26 registration requirements.

27 The bill requires a person who registers a liquefied
28 petroleum gas storage tank to furnish proof of financial
29 responsibility for damages occurring after the effective date
30 of the proof, arising out of the ownership, maintenance, or
31 use of liquefied petroleum gas storage tanks. The proof shall
32 be given through the existence of a liability policy with
33 liability limits not less than \$1 million per incident and \$2
34 million in the aggregate. The bill provides the procedure and
35 requirements for furnishing proof of financial responsibility.

1 The bill provides that when an insurance carrier has certified
2 a liability policy, the liability policy shall not be canceled
3 or terminated until at least 10 days after a notice of
4 cancellation or termination of the certified liability policy
5 is filed in the office of the state fire marshal, except that
6 a liability policy subsequently procured and certified with
7 the same or greater coverage shall, on the effective date of
8 its certification, serve to terminate the liability policy
9 previously issued.

10 The bill provides that, except as otherwise provided, the
11 state fire marshal shall, upon request, consent to the
12 immediate cancellation of a liability policy as proof of
13 financial responsibility in the event of the death of an
14 individual on whose behalf such proof was filed and in the
15 event of transfer of ownership upon substitution of such proof
16 on behalf of the new owner. The bill provides that the state
17 fire marshal shall not consent to the cancellation of a
18 liability policy in the event an action for damages upon a
19 liability covered by such proof is then pending or a judgment
20 upon any such liability is unsatisfied, or in the event the
21 person who has filed such liability policy has within one year
22 immediately preceding such request been involved in an
23 accident involving a registered tank covered by the liability
24 policy resulting in injury or damage to the person or property
25 of others. The bill provides that a person whose liability
26 policy has been canceled or terminated shall not display their
27 registration stickers.

28 The bill provides that the state fire marshal shall conduct
29 inspections and, when warranted, investigations in response to
30 complaints received or otherwise as determined necessary by
31 the state fire marshal. The bill provides that the state fire
32 marshal may, at reasonable times, enter an establishment or
33 other place where a liquefied petroleum gas storage tank is
34 located and inspect and obtain samples of liquefied petroleum
35 gas and conduct monitoring or testing of the tanks, associated

1 equipment, contents, or surrounding soils or air. The bill
2 provides that if the state fire marshal obtains a sample,
3 prior to leaving the premises the state fire marshal shall
4 give the owner, operator, or agent in charge a receipt
5 describing the sample obtained and, if requested, a portion of
6 each sample equal in volume or weight to the portion retained.
7 The bill provides that if the state fire marshal causes the
8 sample to be analyzed, a copy of the results of the analysis
9 shall be furnished promptly to the owner, operator, or agent
10 in charge. The bill provides that documents or information
11 obtained from a person shall be available to the public unless
12 a showing satisfactory to the state fire marshal that public
13 disclosure of documents or information, or a particular part
14 of the documents or information to which the state fire
15 marshal has access, would divulge commercial or financial
16 information entitled to protection as a trade secret.

17 The bill requires the state fire marshal to maintain an
18 accurate inventory of liquefied petroleum gas storage tanks
19 and to take any action allowed by law which, in the judgment
20 of the state fire marshal, is necessary to enforce or secure
21 compliance. The bill requires the state fire marshal to
22 conduct investigations of complaints received directly or
23 referred by other agencies, and conduct other investigations
24 deemed necessary. The bill provides that if the owner,
25 operator, or agent in charge of any property refuses
26 admittance, or if prior to such refusal the state fire marshal
27 demonstrates the necessity for a warrant, the state fire
28 marshal may make application under oath or affirmation to the
29 district court of the county in which the property is located
30 for the issuance of a search warrant.

31 The bill provides that if substantial evidence exists that
32 a person has violated or is violating a provision of this
33 bill, the state fire marshal may issue an order directing the
34 person to desist in the practice which constitutes the
35 violation and to take corrective action as necessary to ensure

1 that the violation will cease. The bill provides that the
2 order may also include an appropriate administrative penalty.
3 The bill provides that the person to whom the order is issued
4 may appeal the order as provided in Code chapter 17A. The
5 bill provides that if it is determined by the state fire
6 marshal that an emergency exists respecting any matter
7 affecting or likely to affect the public health, the state
8 fire marshal may issue any order necessary to terminate the
9 emergency without notice and without hearing. The bill
10 provides that the state fire marshal may request the attorney
11 general to institute legal proceedings.

12 The bill provides that a person who violates a provision of
13 this bill is subject to a civil penalty not to exceed \$100 for
14 each day during which the violation continues, up to a maximum
15 of \$10,000. However, if an unregistered tank is registered
16 within 30 days after the state fire marshal issues a cease and
17 desist order, the civil penalty shall not accrue. The bill
18 provides that a civil penalty is an alternative to a criminal
19 penalty. The bill provides that a person who knowingly fails
20 to register a tank or makes a false statement, representation,
21 or certification in a record, report, or other document filed
22 or required to be maintained, or violates an order issued by
23 the state fire marshal, is guilty of an aggravated
24 misdemeanor. The bill provides that the attorney general, at
25 the request of the state fire marshal, shall institute any
26 legal proceedings, including an action for an injunction,
27 necessary to enforce penalty provisions or to obtain
28 compliance.

29 The bill provides that a liquefied petroleum gas storage
30 tank registration fund is created as a separate fund in the
31 state treasury under the control of the department of public
32 safety, division of fire protection. The bill provides that
33 moneys credited to the fund shall be administered by the
34 department of public safety and expended by the division of
35 fire protection for the purposes of administering the

1 provisions of the bill, including the employment of personnel.

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Chair: Greiner
Jones
Mascher

Succeeded By
SF 348

HSB 133

STATE GOVERNMENT

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL
BY CHAIRPERSON ELGIN)

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

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4 1. "Liability policy" means an owner's policy of liability
5 insurance for a tank site or activities associated with the
6 tank site, provided as proof of financial responsibility, and
7 issued by an insurance carrier duly authorized to transact
8 business in this state, to or for the benefit of the person
9 named in the liability policy as insured.

10 2. "Liquefied petroleum gas storage tank" means a tank,
11 including pipes connected to the tank, which is used to
12 contain liquefied petroleum gas of seven thousand gallons or
13 more in volume.

14 3. "Operator" means a person in control of, or having
15 responsibility for, the daily operation of a liquefied
16 petroleum gas storage tank.

17 4. "Owner" means all of the following:

18 a. In the case of a liquefied petroleum gas storage tank
19 in use on or after July 1, 2003, a person who owns the
20 liquefied petroleum gas storage tank used for the storage,
21 use, or dispensing of liquefied petroleum gas.

22 b. In the case of a liquefied petroleum gas storage tank
23 in use before July 1, 2003, but no longer in use on or after
24 that date, a person who owned the tank immediately before the
25 discontinuation of its use.

26 5. "State fire marshal" means the state fire marshal or
27 the state fire marshal's designee.

28 6. "Tank site" means a liquefied petroleum gas storage
29 tank or grouping of liquefied petroleum gas storage tanks
30 within close proximity of each other located within a facility
31 for the purpose of storing liquefied petroleum gas.

32 Sec. 2. NEW SECTION. 101.42 LIABILITY POLICIES.

33 1. A liability policy shall designate, by explicit
34 description or by appropriate reference, all tank sites with
35 respect to which coverage is to be provided and shall insure

1 the person named in the policy against loss from liability
2 imposed by law for damages arising out of the ownership,
3 maintenance, or use of liquefied petroleum gas storage tanks
4 on an insured tank site.

5 2. A liability policy shall state the name and address of
6 the named insured, the coverage afforded by the policy, the
7 policy period, and the limits of liability which shall be not
8 less than one million dollars per tank site, and shall contain
9 an agreement or be endorsed that insurance is provided in
10 accordance with the coverage required in this division in
11 respect to bodily injury and death or property damage, or
12 both, and is subject to all the provisions of this division.

13 3. Any insurance policy that grants the coverage required
14 for a liability policy may also grant any lawful coverage in
15 excess of or in addition to the coverage specified for a
16 liability policy and such excess or additional coverage shall
17 not be subject to the provisions of this division. With
18 respect to an insurance policy that grants such excess or
19 additional coverage, the term "liability policy" shall apply
20 only to that part of the coverage which is required by this
21 division.

22 4. A liability policy may provide for the prorating of the
23 insurance thereunder with other valid and collectible
24 insurance. The requirements for a liability policy may be
25 fulfilled by the policies of one or more insurance carriers
26 which policies together meet such requirements. Any binder
27 issued pending the issuance of a liability policy shall be
28 deemed to fulfill the requirements for such a policy.

29 Sec. 3. NEW SECTION. 101.43 REPORT OF EXISTING AND NEW
30 TANKS -- REGISTRATION FEE -- STICKER -- PENALTY.

31 1. The owner or operator of a liquefied petroleum gas
32 storage tank existing on or before July 1, 2003, shall
33 register the liquefied petroleum gas storage tank by notifying
34 the state fire marshal in writing by May 1, 2004, of the
35 existence of each tank. The notice shall also specify the

1 age, manufacturer's serial number, size, type, location, and
2 uses of the liquefied petroleum gas storage tank.

3 2. An owner or operator who brings into use a liquefied
4 petroleum gas storage tank after July 1, 2003, shall register
5 the liquefied petroleum gas storage tank by notifying the
6 state fire marshal in writing within thirty days of the
7 existence of the tank. The notice shall also specify the age,
8 manufacturer's serial number, size, type, location, and uses
9 of the liquefied petroleum gas storage tank.

10 3. The registration notice provided by an owner or
11 operator to the state fire marshal under subsection 1 or 2
12 shall be accompanied by a fee of ten dollars for each
13 liquefied petroleum gas storage tank included in the notice
14 and the owner or operator shall furnish proof of financial
15 responsibility for the period of registration as provided in
16 section 101.44. The registration of all liquefied petroleum
17 gas storage tanks registered under subsection 1 or 2 shall be
18 renewed on an annual basis. All moneys collected pursuant to
19 this subsection shall be retained by the department of public
20 safety, deposited in the liquefied petroleum gas storage tank
21 registration fund established in section 101.50, and
22 appropriated for the use of the state fire marshal in
23 performance of the duties set forth in this division. An
24 annual registration renewal fee of ten dollars for each
25 liquefied petroleum gas storage tank applies to all owners or
26 operators who filed a registration notice with the state fire
27 marshal pursuant to subsection 1 or 2.

28 4. A person who sells or constructs a tank intended to be
29 used as a liquefied petroleum gas storage tank shall notify
30 the purchaser of the tank in writing of the registration and
31 notification requirements of this section applicable to the
32 purchaser.

33 5. It is unlawful to make, cause to be made, or receive a
34 deposit of liquefied petroleum gas in a liquefied petroleum
35 gas storage tank which has not been registered pursuant to

1 subsection 1 or 2.

2 6. The state fire marshal shall furnish the owner or
3 operator of a liquefied petroleum gas storage tank with a
4 numbered registration sticker for each liquefied petroleum gas
5 storage tank registered with the state fire marshal. The
6 owner or operator shall affix the sticker next to or in close
7 proximity to the float or rotary gauge of each registered
8 liquefied petroleum gas storage tank.

9 7. It is the tank owner's or tank operator's duty to
10 comply with registration requirements. A late registration
11 penalty of twenty-five dollars is imposed in addition to the
12 registration fee for a tank registered after the required
13 date.

14 8. A liquefied petroleum gas storage tank that is subject
15 to regulation under or registration with either the federal
16 department of transportation or state department of
17 transportation, or both, is exempt from the registration
18 requirements of this division.

19 Sec. 4. NEW SECTION. 101.44 FINANCIAL RESPONSIBILITY.

20 1. A person required to register a liquefied petroleum gas
21 storage tank pursuant to section 101.43 shall furnish proof of
22 financial responsibility for accidents occurring after the
23 effective date of the proof, arising out of the ownership,
24 maintenance, or use of the liquefied petroleum gas storage
25 tank. The proof shall be given through the existence of a
26 liability policy with liability limits of not less than one
27 million dollars per incident and two million dollars in the
28 aggregate.

29 2. Proof of financial responsibility may be furnished by
30 filing with the state fire marshal the written certificate of
31 any insurance carrier duly authorized to do business in this
32 state certifying that there is in effect a liability policy
33 for the benefit of the person required to furnish proof of
34 financial responsibility. The certificate shall give the
35 effective date of such liability policy, which date shall be

1 the same as the effective date of the certificate, and shall
2 designate by explicit description the liquefied petroleum gas
3 storage tanks and tank sites covered.

4 3. When an insurance carrier has certified a liability
5 policy under this division, the certified liability policy
6 shall not be canceled or terminated until at least ten days
7 after a notice of cancellation or termination of the certified
8 liability policy is filed in the office of the state fire
9 marshal, except that a liability policy subsequently procured
10 and certified with the same or greater coverage shall, on the
11 effective date of its certification, serve to terminate the
12 liability policy previously issued.

13 4. Except as otherwise provided in this section, the state
14 fire marshal shall, upon request, consent to the immediate
15 cancellation of a liability policy for which a written
16 certificate has been filed pursuant to this chapter as proof
17 of financial responsibility in any of the following events:

18 a. In the event of the death of an individual on whose
19 behalf such proof was filed.

20 b. In the event of transfer of ownership of the liquefied
21 petroleum gas storage tank or tank site that is insured by the
22 liability policy, upon substitution of such proof on behalf of
23 the new owner.

24 5. The state fire marshal shall not consent to the
25 cancellation of a liability policy in the event an action for
26 damages based upon a liability covered by such liability
27 policy is then pending or a judgment upon any such liability
28 is unsatisfied, or in the event the person who has filed a
29 written certificate for such liability policy has within one
30 year immediately preceding such request been involved in an
31 accident involving a registered liquefied petroleum gas
32 storage tank covered by the liability policy resulting in
33 injury or damage to the person or property of others. An
34 affidavit of the person filing the written certificate as to
35 the nonexistence of such facts, or that the person filing the

1 written certificate has been released from all of such
2 person's liability, or has been finally adjudicated not to be
3 liable, for such injury or damage, shall be sufficient
4 evidence thereof in the absence of evidence to the contrary in
5 the records of the state fire marshal.

6 6. A person whose liability policy, when required under
7 this chapter, has been canceled or terminated shall not
8 display the person's registration stickers and shall
9 immediately return the registration stickers to the state fire
10 marshal. If a person fails to return the registration
11 stickers to the state fire marshal as provided herein, the
12 state fire marshal shall immediately direct a peace officer to
13 secure possession of the registration stickers and return the
14 registration stickers to the state fire marshal.

15 Sec. 5. NEW SECTION. 101.45 RULES.

16 The state fire marshal shall adopt rules pursuant to
17 chapter 17A necessary to administer this division.

18 Sec. 6. NEW SECTION. 101.46 STATE FIRE MARSHAL -- DUTIES
19 AND POWERS.

20 The state fire marshal shall do all of the following:

21 1. Inspect and investigate the facilities and records of
22 owners and operators of liquefied petroleum gas storage tanks,
23 as necessary to determine compliance with this division and
24 the rules adopted pursuant to this division. An inspection or
25 investigation shall be conducted subject to the procedures
26 provided in subsection 4. For purposes of developing a rule,
27 maintaining an accurate inventory, or enforcing this division,
28 the state fire marshal may:

29 a. At reasonable times, enter an establishment or other
30 place where a liquefied petroleum gas storage tank is located.

31 b. Inspect and obtain samples of liquefied petroleum gas
32 and conduct monitoring or testing of the tanks, associated
33 equipment, contents, or surrounding soils or air. An
34 inspection shall be commenced and completed with reasonable
35 promptness.

1 (1) If the state fire marshal obtains a sample, prior to
2 leaving the premises the state fire marshal shall give the
3 owner, operator, or agent in charge a receipt describing the
4 sample obtained and, if requested, a portion of each sample
5 equal in volume or weight to the portion retained. If the
6 state fire marshal causes the sample to be analyzed, a copy of
7 the results of the analysis shall be furnished promptly to the
8 owner, operator, or agent in charge.

9 (2) Documents or information obtained from a person
10 pursuant to this subsection shall be available to the public
11 except as provided in this subparagraph. Upon a showing
12 satisfactory to the state fire marshal that public disclosure
13 of documents or information, or a particular part of the
14 documents or information to which the state fire marshal has
15 access under this subsection, would divulge commercial or
16 financial information entitled to protection as a trade
17 secret, the state fire marshal shall consider the documents or
18 information or the particular portion of the documents or
19 information confidential.

20 2. Maintain an accurate inventory of liquefied petroleum
21 gas storage tanks.

22 3. Take any action allowed by law which, in the judgment
23 of the state fire marshal, is necessary to enforce or secure
24 compliance with this division or any rule adopted pursuant to
25 this division.

26 4. a. Conduct investigations of complaints received
27 directly or referred by other agencies, and conduct other
28 investigations deemed necessary. While conducting an
29 investigation, the state fire marshal may enter at any
30 reasonable time in and upon any private or public property to
31 investigate any actual or possible violation of this division
32 or the rules adopted under this division. However, the owner,
33 operator, or agent in charge shall be notified of such
34 entrance.

35 b. If the owner, operator, or agent in charge of any

1 property refuses admittance, or if prior to such refusal the
2 state fire marshal demonstrates the necessity for a warrant,
3 the state fire marshal may make application under oath or
4 affirmation to the district court of the county in which the
5 property is located for the issuance of a search warrant.

6 c. In the search warrant application the state fire
7 marshal shall state that an inspection of the premises is
8 mandated by the laws of this state or that a search of certain
9 premises, areas, or things designated in the application may
10 result in evidence tending to reveal the existence of
11 violations of public health, safety, or welfare requirements
12 imposed by statutes, rules, or ordinances established by the
13 state or a political subdivision of the state. The search
14 warrant application shall describe the area, premises, or
15 thing to be searched, give the date of the last inspection if
16 known, give the date and time of the proposed inspection,
17 declare the need for such inspection, recite that notice of
18 the desire to make an inspection has been given to affected
19 persons and that admission was refused if that be the fact,
20 and state that the inspection has no purpose other than to
21 carry out the purpose of the statute, rule, or ordinance
22 pursuant to which inspection is to be made. If an item of
23 property is sought by the state fire marshal, it shall be
24 identified in the application.

25 d. If the district court is satisfied from an examination
26 of the search warrant applicant, of other witnesses, and of
27 the application allegations regarding the existence of grounds
28 for the application, or that there is probable cause to
29 believe in their existence, the court may issue a search
30 warrant.

31 e. In making inspections and searches pursuant to the
32 authority of this division, the state fire marshal must
33 execute the warrant as follows:

- 34 (1) Within ten days after its date of issuance.
35 (2) In a reasonable manner, and any property seized shall

1 be treated in accordance with the provisions of chapters 808
2 and 809.

3 (3) Subject to any restrictions imposed by the statute,
4 rule, or ordinance pursuant to which inspection is made.

5 Sec. 7. NEW SECTION. 101.47 VIOLATIONS -- ORDERS.

6 1. If substantial evidence exists that a person has
7 violated or is violating a provision of this division or a
8 rule adopted under this division, the state fire marshal may
9 issue an order directing the person to cease and desist in the
10 practice which constitutes the violation and to take
11 corrective action as necessary to ensure that the violation
12 will cease. The order may also include an appropriate
13 administrative penalty pursuant to section 101.48. The person
14 to whom the order is issued may appeal the order as provided
15 in chapter 17A. On appeal, the administrative law judge may
16 affirm, modify, or vacate the order of the state fire marshal.

17 2. However, if it is determined by the state fire marshal
18 that an emergency exists respecting any matter affecting or
19 likely to affect the public health, the state fire marshal may
20 issue any order necessary to terminate the emergency without
21 notice and without hearing. The order is binding and
22 effective immediately and until the order is modified or
23 vacated at an administrative hearing or by a district court.

24 3. The state fire marshal may request the attorney general
25 to institute legal proceedings pursuant to section 101.48.

26 Sec. 8. NEW SECTION. 101.48 PENALTIES -- BURDEN OF
27 PROOF.

28 1. A person who violates this division or a rule or order
29 adopted or issued pursuant to this division is subject to a
30 civil penalty not to exceed one hundred dollars for each day
31 during which the violation continues, up to a maximum of ten
32 thousand dollars. However, if a person violates this division
33 by failing to register a liquefied petroleum gas storage tank
34 under section 101.43, and if the tank is registered within
35 thirty days after the state fire marshal issues a cease and

1 desist order pursuant to section 101.47, subsection 1, the
2 civil penalty under this section shall not accrue. The civil
3 penalty is an alternative to a criminal penalty provided under
4 this section.

5 2. A person who knowingly fails to register under section
6 101.43 or makes a false statement, representation, or
7 certification in a record, report, or other document filed or
8 required to be maintained under this division, or violates an
9 order issued under this division, is guilty of an aggravated
10 misdemeanor.

11 3. The attorney general, at the request of the state fire
12 marshal, shall institute any legal proceeding, including an
13 action for an injunction, necessary to enforce the penalty
14 provisions of this division or to obtain compliance with the
15 provisions of this division or rules adopted or order issued
16 pursuant to this division. In any action, previous findings
17 of fact of the state fire marshal after notice and hearing are
18 conclusive if supported by substantial evidence in the record
19 when the record is viewed as a whole.

20 4. In all proceedings with respect to an alleged violation
21 of this division or a rule adopted or order issued by the
22 state fire marshal pursuant to this division, the burden of
23 proof is upon the state fire marshal.

24 5. If the attorney general has instituted legal
25 proceedings in accordance with this section, all related
26 issues which could otherwise be raised by the alleged violator
27 in a proceeding for judicial review under section 101.49 shall
28 be raised in the legal proceedings instituted in accordance
29 with this section.

30 Sec. 9. NEW SECTION. 101.49 JUDICIAL REVIEW.

31 Except as provided in section 101.48, subsection 5,
32 judicial review of an order or other action of the state fire
33 marshal pursuant to this division or rule adopted pursuant to
34 this division may be sought in accordance with chapter 17A.
35 Notwithstanding chapter 17A, petitions for judicial review may

1 be filed in the district court of the county in which the
2 alleged offense was committed or the final order was entered.

3 Sec. 10. NEW SECTION. 101.50 LIQUEFIED PETROLEUM GAS
4 STORAGE TANK REGISTRATION FUND.

5 1. A liquefied petroleum gas storage tank registration
6 fund is created as a separate fund in the state treasury under
7 the control of the department of public safety, division of
8 fire protection. Interest, fees, and other moneys earned by
9 the fund shall be deposited in the fund. Moneys credited to
10 the fund shall be administered by the department of public
11 safety and expended by the division of fire protection for the
12 purposes of administering this chapter.

13 2. Notwithstanding section 8.33, moneys credited to the
14 fund which remain unobligated or unexpended at the close of
15 the fiscal year shall not revert to the general fund of the
16 state.

17 Sec. 11. EFFECTIVE DATE. This Act, being deemed of
18 immediate importance, takes effect upon enactment.

19 EXPLANATION

20 This bill relates to the regulation of liquefied petroleum
21 gas storage tanks.

22 The bill requires an owner or operator of a liquefied
23 petroleum gas storage tank existing on or before July 1, 2003,
24 to register the tank by notifying the state fire marshal in
25 writing by May 1, 2004, of the existence of each tank. The
26 bill requires an owner or operator who brings into use a
27 liquefied petroleum gas storage tank after July 1, 2003, to
28 register the tank by notifying the state fire marshal in
29 writing within 30 days of the existence of the tank. The bill
30 requires a \$10 registration fee for each tank and requires
31 proof of financial responsibility for the period of
32 registration to accompany the notice. The bill requires a
33 renewal of the registration on an annual basis. The bill
34 provides that all registration fees collected shall be
35 retained by the department of public safety, deposited in a

1 liquefied petroleum gas storage tank registration fund, and
2 appropriated for the use of the state fire marshal in
3 performance of the duties set forth in the bill.

4 The bill requires a person who sells or constructs a tank
5 intended to be used as a liquefied petroleum gas storage tank
6 to notify the purchaser of the tank in writing of the state
7 fire marshal registration and notification requirements
8 applicable to the purchaser. The bill provides that it is
9 unlawful to make, cause to be made, or receive a deposit of
10 liquefied petroleum gas in a liquefied petroleum gas storage
11 tank which has not been registered with the state fire
12 marshal. The bill provides that the state fire marshal shall
13 furnish the owner or operator of a liquefied petroleum gas
14 storage tank with a numbered registration sticker for each
15 liquefied petroleum gas storage tank registered with the state
16 fire marshal. The bill provides that a late registration
17 penalty of \$25 is imposed in addition to the registration fee
18 for a tank registered after the required date. The bill
19 provides that a liquefied petroleum gas storage tank which is
20 subject to regulation by or registration with either the
21 federal department of transportation or state department of
22 transportation, or both, is exempt from the state fire marshal
23 registration requirements.

24 The bill requires a person who registers a liquefied
25 petroleum gas storage tank to furnish proof of financial
26 responsibility for accidents occurring after the effective
27 date of the proof, arising out of the ownership, maintenance,
28 or use of liquefied petroleum gas storage tanks. The proof
29 shall be given through the existence of a liability policy
30 with liability limits not less than \$1 million per incident
31 and \$2 million in the aggregate. The bill provides the
32 procedure and requirements for furnishing proof of financial
33 responsibility. The bill provides that when an insurance
34 carrier has certified a liability policy, the liability policy
35 shall not be canceled or terminated until at least 10 days

1 after a notice of cancellation or termination of the certified
2 liability policy is filed in the office of the state fire
3 marshal, except that a liability policy subsequently procured
4 and certified with the same or greater coverage shall, on the
5 effective date of its certification, serve to terminate the
6 liability policy previously issued.

7 The bill provides that, except as otherwise provided, the
8 state fire marshal shall, upon request, consent to the
9 immediate cancellation of a liability policy as proof of
10 financial responsibility in the event of the death of an
11 individual on whose behalf such proof was filed and in the
12 event of transfer of ownership upon substitution of such proof
13 on behalf of the new owner. The bill provides that the state
14 fire marshal shall not consent to the cancellation of a
15 liability policy in the event an action for damages upon a
16 liability covered by such proof is then pending or a judgment
17 upon any such liability is unsatisfied, or in the event the
18 person who has filed such liability policy has within one year
19 immediately preceding such request been involved in an
20 accident involving a registered tank covered by the liability
21 policy resulting in injury or damage to the person or property
22 of others. The bill provides that a person whose liability
23 policy has been canceled or terminated shall not display their
24 registration stickers and shall immediately return their
25 registration stickers to the state fire marshal.

26 The bill provides that the state fire marshal shall inspect
27 and investigate the facilities and records of owners and
28 operators of liquefied petroleum gas storage tanks with a
29 capacity of 7,000 or more gallons, as necessary to determine
30 compliance. The bill provides that the state fire marshal
31 may, at reasonable times, enter an establishment or other
32 place where a liquefied petroleum gas storage tank is located
33 and inspect and obtain samples of liquefied petroleum gas and
34 conduct monitoring or testing of the tanks, associated
35 equipment, contents, or surrounding soils or air. The bill

1 provides that if the state fire marshal obtains a sample,
2 prior to leaving the premises the state fire marshal shall
3 give the owner, operator, or agent in charge a receipt
4 describing the sample obtained and, if requested, a portion of
5 each sample equal in volume or weight to the portion retained.
6 The bill provides that if the state fire marshal causes the
7 sample to be analyzed, a copy of the results of the analysis
8 shall be furnished promptly to the owner, operator, or agent
9 in charge. The bill provides that documents or information
10 obtained from a person shall be available to the public unless
11 a showing satisfactory to the state fire marshal that public
12 disclosure of documents or information, or a particular part
13 of the documents or information to which the state fire
14 marshal has access, would divulge commercial or financial
15 information entitled to protection as a trade secret.

16 The bill requires the state fire marshal to maintain an
17 accurate inventory of liquefied petroleum gas storage tanks
18 and to take any action allowed by law which, in the judgment
19 of the state fire marshal, is necessary to enforce or secure
20 compliance. The bill requires the state fire marshal to
21 conduct investigations of complaints received directly or
22 referred by other agencies, and conduct other investigations
23 deemed necessary. The bill provides that if the owner,
24 operator, or agent in charge of any property refuses
25 admittance, or if prior to such refusal the state fire marshal
26 demonstrates the necessity for a warrant, the state fire
27 marshal may make application under oath or affirmation to the
28 district court of the county in which the property is located
29 for the issuance of a search warrant.

30 The bill provides that if substantial evidence exists that
31 a person has violated or is violating a provision of this
32 bill, the state fire marshal may issue an order directing the
33 person to desist in the practice which constitutes the
34 violation and to take corrective action as necessary to ensure
35 that the violation will cease. The bill provides that the

1 order may also include an appropriate administrative penalty.
2 The bill provides that the person to whom the order is issued
3 may appeal the order as provided in Code chapter 17A. The
4 bill provides that if it is determined by the state fire
5 marshal that an emergency exists respecting any matter
6 affecting or likely to affect the public health, the state
7 fire marshal may issue any order necessary to terminate the
8 emergency without notice and without hearing. The bill
9 provides that the state fire marshal may request the attorney
10 general to institute legal proceedings.

11 The bill provides that a person who violates a provision of
12 this bill is subject to a civil penalty not to exceed \$100 for
13 each day during which the violation continues, up to a maximum
14 of \$10,000. However, if an unregistered tank is registered
15 within 30 days after the state fire marshal issues a cease and
16 desist order, the civil penalty shall not accrue. The bill
17 provides that a civil penalty is an alternative to a criminal
18 penalty. The bill provides that a person who knowingly fails
19 to register a tank or makes a false statement, representation,
20 or certification in a record, report, or other document filed
21 or required to be maintained, or violates an order issued by
22 the state fire marshal, is guilty of an aggravated
23 misdemeanor. The bill provides that the attorney general, at
24 the request of the state fire marshal, shall institute any
25 legal proceedings, including an action for an injunction,
26 necessary to enforce penalty provisions or to obtain
27 compliance.

28 The bill provides that a liquefied petroleum gas storage
29 tank registration fund is created as a separate fund in the
30 state treasury under the control of the department of public
31 safety, division of fire protection. The bill provides that
32 moneys credited to the fund shall be administered by the
33 department of public safety and expended by the division of
34 fire protection for the purposes of administering the
35 provisions of the bill.

1 The bill takes effect upon enactment.

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