

House Study Bill 29

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

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:
5 TLSB 1873HC 81
6 tm/sh/8

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1 1 Section 1. NEW SECTION. 101.41 DEFINITIONS.
1 2 As used in this division, unless the context otherwise
1 3 requires:
1 4 1. "Liability policy" means an owner's or operator's
1 5 policy of liability insurance for a tank site or activities
1 6 associated with the tank site, provided as proof of financial
1 7 responsibility.
1 8 2. "Liquefied petroleum gas storage tank" means a tank,
1 9 which is used to contain liquefied petroleum gas, and which
1 10 has a capacity of more than four thousand gallons in volume.
1 11 3. "Operator" means a person in control of, or having
1 12 responsibility for, the daily operation of a liquefied
1 13 petroleum gas storage tank.
1 14 4. "Owner" means all of the following:
1 15 a. In the case of a liquefied petroleum gas storage tank
1 16 in use on or after July 1, 2005, a person who owns the
1 17 liquefied petroleum gas storage tank used for the storage,
1 18 use, or dispensing of liquefied petroleum gas.
1 19 b. In the case of a liquefied petroleum gas storage tank
1 20 in use before July 1, 2005, but no longer in use on or after
1 21 that date, a person who owned the tank immediately before the
1 22 discontinuation of its use.
1 23 5. "State fire marshal" means the state fire marshal or
1 24 the state fire marshal's designee.
1 25 6. "Tank site" means a liquefied petroleum gas storage
1 26 tank or grouping of liquefied petroleum gas storage tanks
1 27 within close proximity of each other located within a facility
1 28 for the purpose of storing liquefied petroleum gas.
1 29 Sec. 2. NEW SECTION. 101.42 LIABILITY POLICIES.
1 30 1. A liability policy shall designate, by explicit
1 31 description or by appropriate reference, all tank sites with
1 32 respect to which coverage is to be provided and shall insure
1 33 the person named in the policy against loss from liability
1 34 imposed by law for damages arising out of the ownership,
1 35 maintenance, or use of liquefied petroleum gas storage tanks
2 1 on an insured tank site.
2 2 2. A liability policy shall state the name and address of
2 3 the named insured, the coverage afforded by the policy, the
2 4 policy period, and the limits of liability which shall be not
2 5 less than one million dollars per incident and two million
2 6 dollars in the aggregate, and shall contain an agreement or be
2 7 endorsed that insurance is provided in accordance with the
2 8 coverage required in this division in respect to bodily injury
2 9 and death or property damage, or both, and is subject to all
2 10 the provisions of this division.
2 11 3. Any insurance policy that grants the coverage required
2 12 for a liability policy may also grant any lawful coverage in
2 13 excess of or in addition to the coverage specified for a
2 14 liability policy and such excess or additional coverage shall
2 15 not be subject to the provisions of this division. With
2 16 respect to an insurance policy that grants such excess or
2 17 additional coverage, the term "liability policy" shall apply

2 18 only to that part of the coverage which is required by this
2 19 division.

2 20 4. A liability policy may provide for the prorating of the
2 21 insurance thereunder with other valid and collectible
2 22 insurance. The requirements for a liability policy may be
2 23 fulfilled by the policies of one or more insurance carriers
2 24 which policies together meet such requirements. Any binder
2 25 issued pending the issuance of a liability policy shall be
2 26 deemed to fulfill the requirements for such a policy.

2 27 Sec. 3. NEW SECTION. 101.43 REPORT OF EXISTING AND NEW
2 28 TANKS == REGISTRATION FEE == STICKER == PENALTY.

2 29 1. The owner or operator of a liquefied petroleum gas
2 30 storage tank existing on or before July 1, 2005, shall
2 31 register the liquefied petroleum gas storage tank by notifying
2 32 the state fire marshal in writing by May 1, 2006, of the
2 33 existence of each tank. The notice shall also specify the
2 34 age, manufacturer's serial number, size, type, location, and
2 35 uses of the liquefied petroleum gas storage tank and shall be
3 1 in a form specified by the state fire marshal.

3 2 2. An owner or operator who brings into use a liquefied
3 3 petroleum gas storage tank after July 1, 2005, shall register
3 4 the liquefied petroleum gas storage tank by notifying the
3 5 state fire marshal in writing within thirty days of the
3 6 existence of the tank. The notice shall also specify the age,
3 7 manufacturer's serial number, size, type, location, and uses
3 8 of the liquefied petroleum gas storage tank and shall be in a
3 9 form specified by the state fire marshal.

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

3 28 4. A person who sells or constructs a tank intended to be
3 29 used as a liquefied petroleum gas storage tank shall notify
3 30 the purchaser of the tank in writing of the registration and
3 31 notification requirements of this section applicable to the
3 32 purchaser.

3 33 5. It is unlawful to make, cause to be made, or receive a
3 34 deposit of liquefied petroleum gas in a liquefied petroleum
3 35 gas storage tank which has not been registered pursuant to
4 1 subsection 1 or 2. A person shall not deposit liquefied
4 2 petroleum gas in a liquefied petroleum gas tank after
4 3 receiving notice from the state fire marshal that the storage
4 4 tank is not covered by financial responsibility in accordance
4 5 with section 101.44.

4 6 6. The state fire marshal shall furnish the owner or
4 7 operator of a liquefied petroleum gas storage tank with a
4 8 numbered registration sticker for each liquefied petroleum gas
4 9 storage tank registered with the state fire marshal. The
4 10 owner or operator shall affix the sticker next to or in close
4 11 proximity to the float or rotary gauge of each registered
4 12 liquefied petroleum gas storage tank.

4 13 7. It is the tank owner's or tank operator's duty to
4 14 comply with registration requirements. A late registration
4 15 penalty of fifty dollars is imposed in addition to the
4 16 registration fee for a tank registered after the required
4 17 date. The penalty shall be applicable for each year in which
4 18 the tank is operated without registration.

4 19 8. A liquefied petroleum gas storage tank that is subject
4 20 to regulation under or registration with either the federal
4 21 department of transportation or state department of
4 22 transportation, or both, is exempt from the registration
4 23 requirements of this division.

4 24 Sec. 4. NEW SECTION. 101.44 FINANCIAL RESPONSIBILITY.

4 25 1. A person required to register a liquefied petroleum gas
4 26 storage tank pursuant to section 101.43 shall furnish proof of
4 27 financial responsibility for damages occurring after the
4 28 effective date of the proof, arising out of the ownership,

4 29 maintenance, or use of the liquefied petroleum gas storage
4 30 tank.

4 31 2. Proof of financial responsibility shall be filed with
4 32 the state fire marshal in accordance with rules adopted by the
4 33 fire marshal pursuant to chapter 17A. Proof of financial
4 34 responsibility shall be in the form of a written certificate
4 35 of any insurance carrier duly authorized to do business in
5 1 this state certifying that there is in effect a liability
5 2 policy for the benefit of the person required to furnish proof
5 3 of financial responsibility. The certificate shall give the
5 4 effective date of such liability policy, which date shall be
5 5 the same as the effective date of the certificate, and shall
5 6 designate by explicit description the liquefied petroleum gas
5 7 storage tanks and tank sites covered.

5 8 3. When an insurance carrier has certified a liability
5 9 policy under this division, the certified liability policy
5 10 shall not be canceled or terminated until at least ten days
5 11 after a notice of cancellation or termination of the certified
5 12 liability policy is filed in the office of the state fire
5 13 marshal, except that a liability policy subsequently procured
5 14 and certified with the same or greater coverage shall, on the
5 15 effective date of its certification, serve to terminate the
5 16 liability policy previously issued.

5 17 4. Except as otherwise provided in this section, the state
5 18 fire marshal shall, upon request, consent to the immediate
5 19 cancellation of a liability policy for which a written
5 20 certificate has been filed pursuant to this chapter as proof
5 21 of financial responsibility in any of the following events:

5 22 a. In the event of the death of an individual on whose
5 23 behalf such proof was filed.

5 24 b. In the event of transfer of ownership of the liquefied
5 25 petroleum gas storage tank or tank site that is insured by the
5 26 liability policy, upon substitution of such proof on behalf of
5 27 the new owner.

5 28 5. The state fire marshal shall not consent to the
5 29 cancellation of a liability policy in the event an action for
5 30 damages based upon a liability covered by such liability
5 31 policy is then pending or a judgment upon any such liability
5 32 is unsatisfied, or in the event the person who has filed a
5 33 written certificate for such liability policy has within one
5 34 year immediately preceding such request been involved in an
5 35 accident involving a registered liquefied petroleum gas
6 1 storage tank covered by the liability policy resulting in
6 2 injury or damage to the person or property of others. An
6 3 affidavit of the person filing the written certificate as to
6 4 the nonexistence of such facts, or that the person filing the
6 5 written certificate has been released from all of such
6 6 person's liability, or has been finally adjudicated not to be
6 7 liable, for such injury or damage, shall be sufficient
6 8 evidence thereof in the absence of evidence to the contrary in
6 9 the records of the state fire marshal.

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

6 13 Sec. 5. NEW SECTION. 101.45 RULES.

6 14 The state fire marshal shall adopt rules pursuant to
6 15 chapter 17A necessary to administer this division. The rules
6 16 may provide for fees for inspections completed pursuant to
6 17 this division. The fees shall be reasonably related to costs
6 18 incurred by the state fire marshal in completing inspections.
6 19 Revenue generated from the fees shall be deposited in the
6 20 liquefied petroleum gas storage tank registration fund
6 21 established in section 101.50.

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

6 24 The state fire marshal shall do all of the following:

6 25 1. Conduct inspections and, when warranted, investigations
6 26 in response to complaints received or otherwise as determined
6 27 necessary by the state fire marshal. An inspection or
6 28 investigation shall be conducted subject to the procedures
6 29 provided in subsection 4. For purposes of developing a rule,
6 30 maintaining an accurate inventory, or enforcing this division,
6 31 the state fire marshal may:

6 32 a. At reasonable times, enter an establishment or other
6 33 place where a liquefied petroleum gas storage tank is located.

6 34 b. Inspect and obtain samples of liquefied petroleum gas
6 35 and conduct monitoring or testing of the tanks, associated
7 1 equipment, contents, or surrounding soils or air. An
7 2 inspection shall be commenced and completed with reasonable
7 3 promptness.

7 4 (1) If the state fire marshal obtains a sample, prior to

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

7 12 (2) Documents or information obtained from a person
7 13 pursuant to this subsection shall be available to the public
7 14 except as provided in this subparagraph. Upon a showing
7 15 satisfactory to the state fire marshal that public disclosure
7 16 of documents or information, or a particular part of the
7 17 documents or information to which the state fire marshal has
7 18 access under this subsection, would divulge commercial or
7 19 financial information entitled to protection as a trade
7 20 secret, the state fire marshal shall consider the documents or
7 21 information or the particular portion of the documents or
7 22 information confidential.

7 23 2. Maintain an accurate inventory of liquefied petroleum
7 24 gas storage tanks. The inventory shall be maintained so that
7 25 it is accessible through the internet and searchable by tank
7 26 location, owner name, operator name, and any other category
7 27 relevant to an inquiry to ascertain whether the tank is
7 28 properly registered and eligible to receive liquefied
7 29 petroleum gas.

7 30 3. Take any action allowed by law which, in the judgment
7 31 of the state fire marshal, is necessary to enforce or secure
7 32 compliance with this division or any rule adopted pursuant to
7 33 this division.

7 34 4. a. Conduct investigations of complaints received
7 35 directly or referred by other agencies, and conduct other
8 1 investigations deemed necessary. While conducting an
8 2 investigation, the state fire marshal may enter at any
8 3 reasonable time in and upon any private or public property to
8 4 investigate any actual or possible violation of this division
8 5 or the rules adopted under this division. However, the owner,
8 6 operator, or agent in charge shall be notified of such
8 7 entrance.

8 8 b. If the owner, operator, or agent in charge of any
8 9 property refuses admittance, or if prior to such refusal the
8 10 state fire marshal demonstrates the necessity for a warrant,
8 11 the state fire marshal may make application under oath or
8 12 affirmation to the district court of the county in which the
8 13 property is located for the issuance of a search warrant.

8 14 c. In the search warrant application the state fire
8 15 marshal shall state that an inspection of the premises is
8 16 mandated by the laws of this state or that a search of certain
8 17 premises, areas, or things designated in the application may
8 18 result in evidence tending to reveal the existence of
8 19 violations of public health, safety, or welfare requirements
8 20 imposed by statutes, rules, or ordinances established by the
8 21 state or a political subdivision of the state. The search
8 22 warrant application shall describe the area, premises, or
8 23 thing to be searched, give the date of the last inspection if
8 24 known, give the date and time of the proposed inspection,
8 25 declare the need for such inspection, recite that notice of
8 26 the desire to make an inspection has been given to affected
8 27 persons and that admission was refused if that be the fact,
8 28 and state that the inspection has no purpose other than to
8 29 carry out the purpose of the statute, rule, or ordinance
8 30 pursuant to which inspection is to be made. If an item of
8 31 property is sought by the state fire marshal, it shall be
8 32 identified in the application.

8 33 d. If the district court is satisfied from an examination
8 34 of the search warrant applicant, of other witnesses, and of
8 35 the application allegations regarding the existence of grounds
9 1 for the application, or that there is probable cause to
9 2 believe in their existence, the court may issue a search
9 3 warrant.

9 4 e. In making inspections and searches pursuant to the
9 5 authority of this division, the state fire marshal must
9 6 execute the warrant as follows:

9 7 (1) Within ten days after its date of issuance.

9 8 (2) In a reasonable manner, and any property seized shall
9 9 be treated in accordance with the provisions of chapters 808
9 10 and 809.

9 11 (3) Subject to any restrictions imposed by the statute,
9 12 rule, or ordinance pursuant to which inspection is made.

9 13 Sec. 7. NEW SECTION. 101.47 VIOLATIONS == ORDERS.

9 14 1. If substantial evidence exists that a person has
9 15 violated or is violating a provision of this division or a

9 16 rule adopted under this division, the state fire marshal may
9 17 issue an order directing the person to cease and desist in the
9 18 practice which constitutes the violation and to take
9 19 corrective action as necessary to ensure that the violation
9 20 will cease. The order may also include an appropriate
9 21 administrative penalty pursuant to section 101.48. The person
9 22 to whom the order is issued may appeal the order as provided
9 23 in chapter 17A and the rules of the department of public
9 24 safety and the state fire marshal. On appeal, an order of the
9 25 state fire marshal may be affirmed, modified, or vacated.

9 26 2. However, if it is determined by the state fire marshal
9 27 that an emergency exists respecting any matter affecting or
9 28 likely to affect the public health, the state fire marshal may
9 29 issue any order necessary to terminate the emergency without
9 30 notice and without hearing. The order is binding and
9 31 effective immediately and until the order is modified or
9 32 vacated at an administrative hearing or by a district court.

9 33 3. The state fire marshal may request the attorney general
9 34 to institute legal proceedings pursuant to section 101.48.

9 35 Sec. 8. NEW SECTION. 101.48 PENALTIES == BURDEN OF
10 1 PROOF.

10 2 1. A person who violates this division or a rule or order
10 3 adopted or issued pursuant to this division is subject to a
10 4 civil penalty not to exceed one hundred dollars for each day
10 5 during which the violation continues, up to a maximum of ten
10 6 thousand dollars. However, if a person violates this division
10 7 by failing to register a liquefied petroleum gas storage tank
10 8 under section 101.43, and if the tank is registered within
10 9 thirty days after the state fire marshal issues a cease and
10 10 desist order pursuant to section 101.47, subsection 1, the
10 11 civil penalty under this section shall not accrue. The civil
10 12 penalty is an alternative to a criminal penalty provided under
10 13 this section.

10 14 2. A person who knowingly fails to register under section
10 15 101.43 or makes a false statement, representation, or
10 16 certification in a record, report, or other document filed or
10 17 required to be maintained under this division, or violates an
10 18 order issued under this division, is guilty of an aggravated
10 19 misdemeanor.

10 20 3. The attorney general, at the request of the state fire
10 21 marshal, shall institute any legal proceeding, including an
10 22 action for an injunction, necessary to enforce the penalty
10 23 provisions of this division or to obtain compliance with the
10 24 provisions of this division or rules adopted or order issued
10 25 pursuant to this division. In any action, previous findings
10 26 of fact of the state fire marshal after notice and hearing are
10 27 conclusive if supported by substantial evidence in the record
10 28 when the record is viewed as a whole.

10 29 4. In all proceedings with respect to an alleged violation
10 30 of this division or a rule adopted or order issued by the
10 31 state fire marshal pursuant to this division, the burden of
10 32 proof is upon the state fire marshal.

10 33 5. If the attorney general has instituted legal
10 34 proceedings in accordance with this section, all related
10 35 issues which could otherwise be raised by the alleged violator
11 1 in a proceeding for judicial review under section 101.49 shall
11 2 be raised in the legal proceedings instituted in accordance
11 3 with this section.

11 4 Sec. 9. NEW SECTION. 101.49 JUDICIAL REVIEW.

11 5 Except as provided in section 101.48, subsection 5,
11 6 judicial review of an order or other action of the state fire
11 7 marshal pursuant to this division or rule adopted pursuant to
11 8 this division may be sought in accordance with chapter 17A.
11 9 Notwithstanding chapter 17A, petitions for judicial review may
11 10 be filed in the district court of the county in which the
11 11 alleged offense was committed or the final order was entered.

11 12 Sec. 10. NEW SECTION. 101.50 LIQUEFIED PETROLEUM GAS
11 13 STORAGE TANK REGISTRATION FUND.

11 14 1. A liquefied petroleum gas storage tank registration
11 15 fund is created as a separate fund in the state treasury under
11 16 the control of the department of public safety, division of
11 17 fire protection. Interest, fees, and other moneys earned by
11 18 the fund shall be deposited in the fund. Moneys credited to
11 19 the fund shall be administered by the department of public
11 20 safety and expended by the division of fire protection for the
11 21 purposes of administering this chapter, including the
11 22 employment of personnel.

11 23 2. Notwithstanding section 8.33, moneys credited to the
11 24 fund which remain unobligated or unexpended at the close of
11 25 the fiscal year shall not revert to the general fund of the
11 26 state.

11 27 Sec. 11. CODE EDITOR DIRECTIVE. The Code editor shall
11 28 organize this Act as a separate division of Code chapter 101.

11 29 EXPLANATION

11 30 This bill relates to the regulation of liquefied petroleum
11 31 gas storage tanks.

11 32 The bill requires an owner or operator of a liquefied
11 33 petroleum gas storage tank existing on or before July 1, 2005,
11 34 to register the tank by notifying the state fire marshal in
11 35 writing by May 1, 2006, of the existence of each tank. The
12 1 bill requires an owner or operator who brings into use a
12 2 liquefied petroleum gas storage tank after July 1, 2005, to
12 3 register the tank by notifying the state fire marshal in
12 4 writing within 30 days of the existence of the tank. The bill
12 5 requires a \$25 registration fee for each tank and requires
12 6 proof of financial responsibility for the period of
12 7 registration to accompany the notice. The bill requires a
12 8 renewal of the registration on an annual basis. The bill
12 9 provides that all registration fees collected shall be
12 10 retained by the department of public safety, deposited in a
12 11 liquefied petroleum gas storage tank registration fund, and
12 12 appropriated for the use of the state fire marshal in
12 13 performance of the duties set forth in the bill.

12 14 The bill requires a person who sells or constructs a tank
12 15 intended to be used as a liquefied petroleum gas storage tank
12 16 to notify the purchaser of the tank in writing of the state
12 17 fire marshal registration and notification requirements
12 18 applicable to the purchaser. The bill provides that it is
12 19 unlawful to make, cause to be made, or receive a deposit of
12 20 liquefied petroleum gas in a liquefied petroleum gas storage
12 21 tank which has not been registered with the state fire
12 22 marshal. The bill provides that the state fire marshal shall
12 23 furnish the owner or operator of a liquefied petroleum gas
12 24 storage tank with a numbered registration sticker for each
12 25 liquefied petroleum gas storage tank registered with the state
12 26 fire marshal. The bill provides that a late registration
12 27 penalty of \$50 is imposed in addition to the registration fee
12 28 for a tank registered after the required date. The bill
12 29 provides that a liquefied petroleum gas storage tank which is
12 30 subject to regulation by or registration with either the
12 31 federal department of transportation or state department of
12 32 transportation, or both, is exempt from the state fire marshal
12 33 registration requirements.

12 34 The bill requires a person who registers a liquefied
12 35 petroleum gas storage tank to furnish proof of financial
13 1 responsibility for damages occurring after the effective date
13 2 of the proof, arising out of the ownership, maintenance, or
13 3 use of liquefied petroleum gas storage tanks. The bill
13 4 provides the procedure and requirements for furnishing proof
13 5 of financial responsibility. The bill provides that when an
13 6 insurance carrier has certified a liability policy, the
13 7 liability policy shall not be canceled or terminated until at
13 8 least 10 days after a notice of cancellation or termination of
13 9 the certified liability policy is filed in the office of the
13 10 state fire marshal, except that a liability policy
13 11 subsequently procured and certified with the same or greater
13 12 coverage shall, on the effective date of its certification,
13 13 serve to terminate the liability policy previously issued.

13 14 The bill provides that, except as otherwise provided, the
13 15 state fire marshal shall, upon request, consent to the
13 16 immediate cancellation of a liability policy as proof of
13 17 financial responsibility in the event of the death of an
13 18 individual on whose behalf such proof was filed and in the
13 19 event of transfer of ownership upon substitution of such proof
13 20 on behalf of the new owner. The bill provides that the state
13 21 fire marshal shall not consent to the cancellation of a
13 22 liability policy in the event an action for damages upon a
13 23 liability covered by such proof is then pending or a judgment
13 24 upon any such liability is unsatisfied, or in the event the
13 25 person who has filed such liability policy has within one year
13 26 immediately preceding such request been involved in an
13 27 accident involving a registered tank covered by the liability
13 28 policy resulting in injury or damage to the person or property
13 29 of others. The bill provides that a person whose liability
13 30 policy has been canceled or terminated shall not display their
13 31 registration stickers.

13 32 The bill provides that the state fire marshal shall conduct
13 33 inspections and, when warranted, investigations in response to
13 34 complaints received or otherwise as determined necessary by
13 35 the state fire marshal. The bill provides that the state fire
14 1 marshal may, at reasonable times, enter an establishment or
14 2 other place where a liquefied petroleum gas storage tank is

14 3 located and inspect and obtain samples of liquefied petroleum
14 4 gas and conduct monitoring or testing of the tanks, associated
14 5 equipment, contents, or surrounding soils or air. The bill
14 6 provides that if the state fire marshal obtains a sample,
14 7 prior to leaving the premises the state fire marshal shall
14 8 give the owner, operator, or agent in charge a receipt
14 9 describing the sample obtained and, if requested, a portion of
14 10 each sample equal in volume or weight to the portion retained.
14 11 The bill provides that if the state fire marshal causes the
14 12 sample to be analyzed, a copy of the results of the analysis
14 13 shall be furnished promptly to the owner, operator, or agent
14 14 in charge. The bill provides that documents or information
14 15 obtained from a person shall be available to the public unless
14 16 a showing satisfactory to the state fire marshal that public
14 17 disclosure of documents or information, or a particular part
14 18 of the documents or information to which the state fire
14 19 marshal has access, would divulge commercial or financial
14 20 information entitled to protection as a trade secret.

14 21 The bill requires the state fire marshal to maintain an
14 22 accurate inventory of liquefied petroleum gas storage tanks
14 23 and to take any action allowed by law which, in the judgment
14 24 of the state fire marshal, is necessary to enforce or secure
14 25 compliance. The bill requires the state fire marshal to
14 26 conduct investigations of complaints received directly or
14 27 referred by other agencies, and conduct other investigations
14 28 deemed necessary. The bill provides that if the owner,
14 29 operator, or agent in charge of any property refuses
14 30 admittance, or if prior to such refusal the state fire marshal
14 31 demonstrates the necessity for a warrant, the state fire
14 32 marshal may make application under oath or affirmation to the
14 33 district court of the county in which the property is located
14 34 for the issuance of a search warrant.

14 35 The bill provides that if substantial evidence exists that
15 1 a person has violated or is violating a provision of this
15 2 bill, the state fire marshal may issue an order directing the
15 3 person to desist in the practice which constitutes the
15 4 violation and to take corrective action as necessary to ensure
15 5 that the violation will cease. The bill provides that the
15 6 order may also include an appropriate administrative penalty.
15 7 The bill provides that the person to whom the order is issued
15 8 may appeal the order as provided in Code chapter 17A. The
15 9 bill provides that if it is determined by the state fire
15 10 marshal that an emergency exists respecting any matter
15 11 affecting or likely to affect the public health, the state
15 12 fire marshal may issue any order necessary to terminate the
15 13 emergency without notice and without hearing. The bill
15 14 provides that the state fire marshal may request the attorney
15 15 general to institute legal proceedings.

15 16 The bill provides that a person who violates a provision of
15 17 this bill is subject to a civil penalty not to exceed \$100 for
15 18 each day during which the violation continues, up to a maximum
15 19 of \$10,000. However, if an unregistered tank is registered
15 20 within 30 days after the state fire marshal issues a cease and
15 21 desist order, the civil penalty shall not accrue. The bill
15 22 provides that a civil penalty is an alternative to a criminal
15 23 penalty. The bill provides that a person who knowingly fails
15 24 to register a tank or makes a false statement, representation,
15 25 or certification in a record, report, or other document filed
15 26 or required to be maintained, or violates an order issued by
15 27 the state fire marshal, is guilty of an aggravated
15 28 misdemeanor. The bill provides that the attorney general, at
15 29 the request of the state fire marshal, shall institute any
15 30 legal proceedings, including an action for an injunction,
15 31 necessary to enforce penalty provisions or to obtain
15 32 compliance.

15 33 The bill provides that a liquefied petroleum gas storage
15 34 tank registration fund is created as a separate fund in the
15 35 state treasury under the control of the department of public
16 1 safety, division of fire protection. The bill provides that
16 2 moneys credited to the fund shall be administered by the
16 3 department of public safety and expended by the division of
16 4 fire protection for the purposes of administering the
16 5 provisions of the bill, including the employment of personnel.

16 6 The bill directs the Code editor to organize the provisions
16 7 of this bill as a separate division of Code chapter 101.