

TITLE 54
PROFESSIONS, VOCATIONS, AND BUSINESSES

CHAPTER 53
IDAHO LIQUEFIED PETROLEUM GAS PUBLIC SAFETY ACT

54-5301. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Liquefied Petroleum Gas Public Safety Act."

[(54-5301) 54-5101, added 2005, ch. 143, sec. 1, p. 441; am. and re-desig. 2006, ch. 16, sec. 8, p. 51.]

54-5302. DECLARATION OF POLICY. (1) In order to protect the public health, safety and welfare, every person practicing or offering to practice as a liquefied petroleum gas dealer as herein defined shall submit evidence of meeting such education, experience and examination qualifications as hereinafter provided and be licensed in accordance with the provisions of this chapter.

(2) In order to protect the public health, safety and welfare, it shall be unlawful to own or operate any facility engaged in liquefied petroleum gas facility operation unless such facility is licensed in accordance with the provisions of this chapter.

(3) Every person so licensed and every facility so licensed shall maintain prescribed standards of competence, conduct and operation, and shall annually renew said license in order to continue such practice or operation. This chapter shall be liberally construed to promote the public interest and to accomplish the purpose stated herein.

(4) Notwithstanding any other provisions of law pertaining to the installation of plumbing and heating, ventilation, and air conditioning systems, and except as provided in section [54-5305](#), Idaho Code, the provisions of this chapter shall govern all persons and entities engaged in the outdoor installation of any liquefied petroleum gas storage tank, or outdoor piping from the storage tank through the second stage regulator.

[(54-5302) 54-5102, added 2005, ch. 143, sec. 1, p. 441; am. and re-desig. 2006, ch. 16, sec. 9, p. 52; am. and re-desig. 2006, ch. 110, sec. 1, p. 303.]

54-5303. DEFINITIONS. (1) "Board" means the liquefied petroleum gas safety board.

(2) "Bureau" means the bureau of occupational licenses.

(3) "Department" means the department of self-governing agencies.

(4) "Good moral character" means the absence of any behavior that violates accepted standards of the community including, but not limited to:

(a) Conviction or plea of guilty to a crime that is deemed relevant in accordance with section [67-9411](#)(1), Idaho Code;

(b) Habitual use of drugs or intoxicants to such a degree as to render a person unfit and unreliable to practice;

(c) Revocation or suspension or other restriction of any license or certificate in any state in the previous five (5) years; and

(d) Failure to pay final judgments in any state in the previous seven (7) years.

(5) "License" means a physical document issued by the bureau certifying that a person or facility has met the appropriate qualifications and has been

granted the authority to practice or operate in Idaho under the provisions of this chapter.

(6) "Liquefied petroleum gas" or "LPG" or "LP-Gas" means any material that is composed predominantly of or by the mixture of any of the following hydrocarbons: propane, propylene, butanes, isobutanes and butylenes.

(7) "LPG facility" means any facility at a fixed location licensed pursuant to this chapter whose activities include selling, filling, refilling, or commercial handling or commercial storage of LPG.

(8) "LPG dealer" means any person licensed pursuant to this chapter who engages in LPG dealer practice.

(9) "LPG dealer practice" means a person engaging in the selling, filling, refilling, transporting, delivering, or commercial handling of LPG, or engaging in the installation or maintenance of systems, equipment, pipes or containers for the use or storage of LPG.

(10) "LPG code" means the liquefied petroleum gas code adopted by the national fire protection association, inc., commonly known as NFPA 58.

[(54-5303) 54-5103, added 2005, ch. 143, sec. 1, p. 442; am. and redesign. 2006, ch. 16, sec. 10, p. 52; am. 2020, ch. 175, sec. 37, p. 543.]

54-5304. LICENSE REQUIRED -- BUSINESS ENTITIES -- NAME AND ADDRESS CHANGE. (1) It shall be unlawful for any person to practice or to offer to engage in any practice governed by this chapter, or display a sign or in any other way advertise or represent oneself as a person who engages in such practices, unless duly licensed in accordance with this chapter. The license shall be posted in the person's established place of business or carried upon the person, and shall be presented upon demand as proof of licensing.

(2) A person, corporation, partnership, trust, association or other legal entity may maintain an established facility for engaging in an operation governed by this chapter, provided that such facility is properly licensed pursuant to this chapter. No person, corporation, partnership, trust, association or other legal entity may operate or conduct business under an assumed business name unless such operation or business is registered in accordance with the rules of the board.

(3) All holders of individual or facility licenses shall notify the board in writing of any change of address of office or established place of business within thirty (30) days of such change.

(4) All holders of individual or facility licenses shall report to the board and provide official documentation of any name change within thirty (30) days after the change becomes final.

[(54-5304) 54-5104, added 2005, ch. 143, sec. 1, p. 442; am. and redesign. 2006, ch. 16, sec. 11, p. 53.]

54-5305. EXEMPTIONS. (1) The provisions of this chapter shall not apply to persons or entities engaging in the activities of selling, filling, refilling, transporting, delivering, or the commercial handling of natural gas or petroleum distillates, or persons engaging in the installation or maintenance of equipment used in the selling or handling or use of natural gas or petroleum distillates.

(2) The provisions of this chapter shall not apply to persons engaged in the dispensing of LPG into portable containers.

(3) The provisions of this chapter shall not apply to facilities engaged in the sale or exchange of portable containers possessing LPG.

[(54-5305) 54-5105, added 2005, ch. 143, sec. 1, p. 443; am. and re-desig. 2006, ch. 16, sec. 12, p. 53.]

54-5306. LICENSING OF APPLICANTS -- ENDORSEMENT. (1) The board shall issue a license to each applicant who submits the required information on an application form provided by the board together with the supporting documentation and the required fees, and who demonstrates to the satisfaction of the board that the applicant meets the education, experience, and examination requirements, or the facility requirements, of this chapter and the rules adopted thereto.

(2) Whenever the board determines that another state or country has licensing requirements substantially equivalent to or higher than those in effect pursuant to this chapter, the board may, upon receipt of the required application, supporting documentation, and required fee, issue licenses to applicants who hold current, unsuspended, unrevoked or otherwise nonsanctioned licenses in such other state or country. The board, in its discretion, may require by rule that applicants who received their professional education or experience outside of the United States provide additional information to the board concerning such professional education or experience. The board may also, in its discretion, require successful completion of additional course work or examination.

[(54-5306) 54-5106, added 2005, ch. 143, sec. 1, p. 443; am. and re-desig. 2006, ch. 16, sec. 13, p. 53.]

54-5307. QUALIFICATIONS FOR A DEALER'S LICENSE. Except as herein otherwise provided, the following shall be considered minimum requirements for a dealer's license. All applicants shall:

- (1) Provide verification acceptable to the board of:
 - (a) Being at least eighteen (18) years of age; and
 - (b) Good moral character; and
 - (c) Never having had a license revoked or otherwise sanctioned as part of disciplinary action from this or any other state; and
 - (d) Never having been convicted, found guilty, or received a withheld judgment for any crime that is deemed relevant in accordance with section [67-9411](#)(1), Idaho Code; and
 - (e) Never having been found by the board to have engaged in conduct prohibited by this chapter.

The board may take into consideration the rehabilitation of the applicant and other mitigating circumstances when considering applications for a license.

(2) Provide documentation satisfactory to the board that the applicant has successfully completed a certified educational training program approved by the board.

(3) Provide documentation satisfactory to the board that the applicant has successfully completed such experience as may be required by the board.

(4) Provide documentation that the applicant has successfully passed an examination approved by the board.

(5) Prior to July 1, 2006, the board may deem other education, experience, or examinations equivalent to the licensing requirements set forth in

this chapter, provided that the board is satisfied, and the applicant provides documentation acceptable to the board that such applicant has:

- (a) Documented experience in this state prior to July 1, 2005, in the LPG industry; and
- (b) Practiced for not less than five (5) years in the field for which such applicant is applying for a license; and
- (c) Applied for a license prior to July 1, 2006.

[(54-5307) 54-5107, added 2005, ch. 143, sec. 1, p. 443; am. and re-desig. 2006, ch. 16, sec. 14, p. 54; am. 2020, ch. 175, sec. 38, p. 544.]

54-5308. FACILITY LICENSE -- EQUIPMENT -- INSPECTIONS -- FEES. (1) The board shall issue a facility license to any person, corporation, partnership, trust, association or other legal entity to operate at specific locations only. No facility license shall be transferable, but an applicant may make application for more than one (1) facility license so long as all of the requirements are met for each license individually. Except as herein otherwise provided, the following shall be considered minimum requirements for a facility license:

- (a) That the applicant is lawfully entitled to do business within the United States;
- (b) That the applicant has not been refused a license for a facility, or its equivalent, or had a personal or facility license revoked in Idaho or in any other state;
- (c) That the applicant has designated the name under which the facility will operate and has designated a specific location for which the facility license is to be issued;
- (d) For a facility with a storage capacity of four thousand one (4,001) gallons or more, that the applicant has at least one (1) dealer licensed under this chapter who is a resident of the state of Idaho and who is, and will be, responsible for the operation of the facility;
- (e) That the applicant has filed an application and paid the required filing fee;
- (f) That the applicant's facility meets the requirements of the LPG code, except as designated by the board by rule;
- (g) All applications for facility licenses are in writing and contain the name of the applicant, the address and location of the facility and a description of the type of structure and equipment to be used in the operation of the facility, and such further information as may be required by the board to ensure the safe operation of the facility, and its compliance with the requirements of this chapter;
- (h) The person responsible for the operation of a facility maintains such records documenting the storage, transportation, dispensation and utilization of LPG as may be required by the laws of the state of Idaho and the rules adopted by the board;
- (i) In the event a licensed facility ceases to have a licensed dealer in its employ responsible for operation of the facility, all operation involving practices regulated under this chapter shall cease and written notification of such fact shall be submitted immediately to the board. In the event a licensed facility fails to have a licensed dealer in its employ responsible for the facility within thirty (30) days of said notice, the facility license shall be summarily suspended until a licensed dealer is so employed; and

(j) A certificate issued by an insurance company authorized to do business in the state of Idaho as proof that the applicant has procured and has in effect a general liability policy in the sum of not less than one million dollars (\$1,000,000) single limit.

(2) The board may adopt rules setting forth minimum general standards covering the design, construction, location, installation and operation of systems, equipment, pipes and containers for storing, handling, transporting by tank truck or tank trailer, and using liquefied petroleum gases and specifying the odorization of the gases and the degree thereof.

(3) The board shall adopt inspection rules regarding LPG facilities.

(4) The bureau of occupational licenses shall collect a fee not to exceed five hundred dollars (\$500) for each application, each original license and each annual renewal of any facility license issued pursuant to this chapter and shall deposit all fees in the state treasury in accordance with section [67-2605](#), Idaho Code. The actual fees shall be set by board rule. Fees paid under the provisions of this chapter shall not be refunded unless otherwise specified herein.

[(54-5308) 54-5108, added 2005, ch. 143, sec. 1, p. 444; am. and redesign. 2006, ch. 16, sec. 15, p. 55; am. and redesign. 2006, ch. 110, sec. 2, p. 303; am. 2007, ch. 198, sec. 1, p. 603; am. 2009, ch. 74, sec. 1, p. 208.]

54-5309. IDAHO LIQUEFIED PETROLEUM GAS SAFETY BOARD. (1) There is hereby established in the department of self-governing agencies the Idaho liquefied petroleum gas safety board and the members thereof shall be appointed by the governor. In making appointments, the governor shall give consideration to recommendations submitted by the rocky mountain propane association and from any individual residing in this state.

(2) The board shall consist of five (5) members, two (2) of whom shall be licensed dealers pursuant to the provisions of this chapter; and one (1) of whom shall be a volunteer firefighter in a rural area of the state; and one (1) of whom shall be a firefighter employed by a city fire department in the state; and one (1) of whom shall be a representative of the general public not employed or otherwise connected with the practices or operations regulated pursuant to this chapter.

(3) The members of the first board shall serve for the following terms: one (1) dealer member shall serve for one (1) year; one (1) firefighter member shall serve for two (2) years; one (1) dealer member shall serve for three (3) years; and one (1) firefighter member and the public member shall each serve for four (4) years. Each member shall serve from the effective date of appointment or until a successor is duly appointed and qualified. Upon the expiration of the term of any member of the board, the governor shall appoint the subsequent member for a term of four (4) years. No member shall be appointed for more than two (2) successive terms.

(4) Board members shall serve at the pleasure of the governor.

(5) Three (3) members of the board shall constitute a quorum, and may exercise all the power and authority conferred on the board.

(6) The members shall meet annually and elect from among the members by majority vote of those present a chairman who shall serve for one (1) year.

(7) The board shall meet no less than annually at such times and at such places as may be specified by the chairman or by the written request of at least two (2) members.

(8) Each member of the board shall be compensated as provided in section [59-509](#)(n), Idaho Code.

[(54-5309) 54-5109, added 2005, ch. 143, sec. 1, p. 445; am. and re-desig. 2006, ch. 16, sec. 16, p. 56; am. 2007, ch. 198, sec. 2, p. 604; am. 2010, ch. 158, sec. 1, p. 332; am. 2016, ch. 340, sec. 45, p. 964.]

54-5310. POWERS AND DUTIES OF THE BOARD. The powers and duties of the board are as follows, to:

(1) Authorize all disbursements necessary to carry out the provisions of this chapter;

(2) Approve and administer qualifying examinations to test the knowledge and competence of applicants for a license;

(3) Supervise the approval and issuance of licenses as provided in this chapter, and to license persons who apply to the board and who are qualified pursuant to this chapter;

(4) Renew licenses to persons who apply to the board and who are qualified pursuant to this chapter;

(5) Accept complaints and conduct investigations concerning alleged violations of the provisions of this chapter;

(6) Require and conduct inspections of facilities licensed pursuant to this chapter;

(7) Conduct disciplinary proceedings and take such action as may be appropriate for any violation of this chapter;

(8) Authorize, by written agreement, the bureau of occupational licenses as agent to act in its interest;

(9) Impose reasonable costs, investigative expenses and attorney's fees incurred in enforcing the provisions of this chapter upon a licensee found to have violated one (1) or more provisions of this chapter;

(10) Enforce all provisions of this chapter and board rules including, but not limited to, issuing subpoenas, and obtaining restraining orders and injunctions prohibiting conduct in violation of the provisions of this chapter; and

(11) Make and publish rules not inconsistent with the laws of this state which are necessary to carry out the provisions of this chapter. The rules relating to safety in the storage, distribution, dispensing, transporting and utilization of LPG in this state and in the manufacture, fabrication, assembly, sale, installation and use of LPG systems, piping, containers, apparatus or appliances shall be just and reasonable and shall conform, except as established by board rule, to the standards of the LPG code relating to the design, construction, installation and use of systems, piping, containers, apparatus, appliances and pertinent equipment for the storage, transportation, dispensation and utilization of LPG.

[(54-5310) 54-5110, added 2005, ch. 143, sec. 1, p. 446; am. and re-desig. 2006, ch. 16, sec. 17, p. 56.]

54-5311. DENIAL OR ISSUANCE OF LICENSES. (1) The board shall approve or disapprove all applications, and in the event an application is disapproved, the board shall promptly return to the applicant the license fee. Within fifteen (15) days after the denial of a license, the board shall notify the applicant of the denial and specify the reasons for the denial.

(2) If the applicant is qualified for licensing pursuant to the provisions of this chapter, the board shall approve the application and issue

a license for the appropriate classification according to section [54-5312](#), Idaho Code.

(3) If the application for a facility license is complete and meets the provisions of this chapter, and the applicant attests that the equipment used at the facility complies with the minimum safety standards established by the board, the board shall approve the application and issue a license for the appropriate classification according to section [54-5312](#), Idaho Code.

[(54-5311) 54-5111, added 2005, ch. 143, sec. 1, p. 446; am. and re-desig. 2006, ch. 16, sec. 18, p. 57.]

54-5312. CLASSIFICATIONS OF LICENSES. For the purpose of administering the provisions of this chapter, the board may issue licenses in such types and classifications as may be necessary and as determined by board rule. Such license types may include, but not be limited to:

- (1) An LPG dealer;
- (2) An LPG facility;
- (3) Any other licenses for persons, businesses or facilities engaged in activities regulated under this chapter that the board determines require a license and are not otherwise exempt under the provisions of this chapter.

[(54-5312) 54-5112, added 2005, ch. 143, sec. 1, p. 447; am. and re-desig. 2006, ch. 16, sec. 19, p. 58.]

54-5313. LICENSES -- RECORDS -- FEES -- PAYMENT OF COSTS AND EXPENSES. (1) The bureau of occupational licenses shall, upon the approval of the board and subject to the provisions of this chapter, register and issue licenses to persons who have been approved by the board in accordance with this chapter. The licenses shall bear on their face the seal of the state and the signature of the chief of the bureau of occupational licenses, and shall be effective until the next birthday of the person being licensed. Licenses so issued shall be renewed annually in accordance with section [67-2614](#), Idaho Code. The provisions of sections [67-2609](#) through [67-2614](#), Idaho Code, shall apply to licenses issued pursuant to this chapter.

(2) The board shall keep and the bureau shall maintain a record of board proceedings and a register of all applications that show:

- (a) The name, age, social security number and residency of each applicant;
- (b) The date of application;
- (c) The place of business of such applicant;
- (d) The educational and other qualifications of each applicant;
- (e) Whether or not an examination was required;
- (f) Whether the applicant was denied;
- (g) Whether a license was issued;
- (h) The dates of the action by the board;
- (i) Compliance with continuing education requirements; and
- (j) Such other information as may be deemed necessary by the board.

(3) The bureau of occupational licenses shall collect a fee not to exceed two hundred dollars (\$200) for each application, each original license, and each annual renewal of any license issued pursuant to this chapter, and shall deposit all fees in the state treasury in accordance with section [67-2605](#), Idaho Code. The actual fees shall be set by board rule. The bureau shall also collect a fee equal to that charged by the examination provider when an examination is required as a condition of licensing. Fees paid

under the provisions of this chapter shall not be refunded unless otherwise specified herein.

(4) All fees received under the provisions of this chapter shall be paid to the bureau of occupational licenses and deposited in the state treasury to the credit of the occupational licenses fund and all costs and expenses incurred under the provisions of this chapter shall be charged against and paid from said fund.

[(54-5313) 54-5113, added 2005, ch. 143, sec. 1, p. 447; am. and re-desig. 2006, ch. 16, sec. 20, p. 58.]

54-5314. LICENSES NONTRANSFERABLE -- NOTICE OF CHANGE -- LICENSE FEES NOT REFUNDED. (1) Any license issued under the provisions of this chapter shall not be transferable to any other person, firm, association, partnership, corporation or legal entity, and shall be valid only for the particular premises and particular persons described thereon.

(2) Whenever there is any transfer or change in the ownership of a facility, or whenever there is any change of name or address, such change shall be reported to the board within thirty (30) days together with such documentation as may be required.

[(54-5314) 54-5114, added 2005, ch. 143, sec. 1, p. 447; am. and re-desig. 2006, ch. 16, sec. 21, p. 59.]

54-5315. REVOCATION OR SUSPENSION OF LICENSE -- PROCEDURES FOR DISCIPLINARY PROCEEDINGS. (1) The board shall have the power to refuse to issue a license, or revoke, suspend, refuse to renew, or otherwise sanction any license issued pursuant to the provisions of this chapter for any of the following:

- (a) Procuring a license or registration by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for a license or through any form of fraud or misrepresentation;
- (b) Being convicted of a felony;
- (c) Misrepresentation or fraudulent representation in the performance of any duty, conduct or activity regulated under this chapter;
- (d) Violating the provisions of this chapter or any rules of the board or any code of conduct or ethical standards adopted by the board;
- (e) Being incompetent;
- (f) Failing to provide appropriate and personal supervision, if acting as the designated supervisor, to any person gaining experience under the provisions of this chapter.

(2) The board shall have the power to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and shall have power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records and papers as it may desire, relevant to any hearing before it of any matter which it has authority to investigate, and for that purpose the board may issue a subpoena for any witness or a subpoena duces tecum to compel the production of books, records or papers, directed to the sheriff of any county of the state of Idaho where such witness resides or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case.

(3) The procedures for disciplinary proceedings shall be in compliance with the Idaho administrative procedure act and the rules of the office of the attorney general and the bureau of occupational licenses.

[(54-5315) 54-5115, added 2005, ch. 143, sec. 1, p. 448; am. and redesignig. 2006, ch. 16, sec. 22, p. 59.]

54-5316. VIOLATIONS AND PENALTIES. Any person who shall practice or offer to practice as an LPG dealer or any person who shall operate or attempt to operate an LPG facility as defined in this chapter, without first having a valid and current and unsuspended license issued under the provisions of this chapter, shall be guilty of a misdemeanor and, for each violation, shall be subject to punishment by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for a period of not more than six (6) months, or both.

[(54-5316) 54-5116, added 2005, ch. 143, sec. 1, p. 448; am. and redesignig. 2006, ch. 16, sec. 23, p. 60.]

54-5317. DUTY OF PROSECUTING ATTORNEY -- DUTY OF ATTORNEY GENERAL. It shall be the duty of the prosecuting attorney of each county to prosecute all violations of this chapter constituting a violation of criminal law and it shall be the duty of the attorney general of the state of Idaho to prosecute any administrative actions brought under the provisions of this chapter as requested by the board.

[(54-5317) 54-5117, added 2005, ch. 143, sec. 1, p. 448; am. and redesignig. 2006, ch. 16, sec. 24, p. 60.]

54-5318. FILLING OF LIQUEFIED PETROLEUM GAS CONTAINERS -- RESTRICTIONS. (1) Except as provided in subsection (3) of this section, a person who fills a leased liquefied petroleum gas container in violation of the terms of a written lease is liable in an action by the container lessor for the greater of:

- (a) The actual damages to the container lessor, including incidental and consequential damages and attorney's fees; or
- (b) Five hundred dollars (\$500) for each violation.

(2) The burden of ascertaining the terms of a written lease for purposes of subsection (1) of this section is on the person filling the liquefied petroleum gas container. A person has ascertained the terms of a written lease if he has:

- (a) Read the lease;
- (b) Received the assurance of the container owner that the lease does not prohibit the person from filling the container;
- (c) Obtained a signed, written statement from the lessee that the written lease does not prohibit the person from filling the container; or
- (d) The leased liquefied petroleum gas container is clearly labeled, near the container fill point, as a container subject to lease terms prohibiting the filling of the container without the lessor's permission.

(3) If a lessee misrepresents his ownership or the terms of his written lease, the lessee who made the misrepresentation, and not the person filling the tank, is liable for the damages under subsection (1) of this section.

(4) If a written liquefied petroleum gas container lease restricts the right to fill a leased container, the restriction shall be plainly stated in the lease in any manner designed to draw the attention of the lessee to the lease provision, including:

(a) Typing the restriction in at least two-point larger type than the majority of the document type;

(b) Underlining the restriction; or

(c) Typing the restriction in boldface type.

(5) A lessor whose liquefied petroleum gas container lease does not comply with the provisions of subsection (4) of this section is disqualified from protection under this section.

[54-5318, added 2019, ch. 91, sec. 1, p. 335.]