

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 343 Recreational Vehicles

**SPONSOR(S):** Business & Professions Subcommittee, Fetterhoff

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 422

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	12 Y, 0 N, As CS	Thompson	Anstead
2) State Affairs Committee			
3) Commerce Committee			

### SUMMARY ANALYSIS

The Department of Agriculture and Consumer Services (DACS) Bureau of Compliance is the primary agency charged with the regulation of the liquefied petroleum (LP) gas industry, and ensuring that persons engaged in the LP gas industry are trained and compliant with acceptable safety codes and standards statewide.

Prior to 2018, in order to refill, repair, or replace propane gas and equipment on recreational vehicles (RVs) in Florida, a category IV LP gas dispenser and recreational vehicle servicers license (RV dealers/installers) was required.

Effective July 2018, the category IV LP gas dispenser and recreational vehicle servicer license, which included RV dealers/installers, was consolidated under the requirements of other similar LP gas license types (category I dealer, category II dispenser, and category V installer). Thus, in order to continue to operate, LP gas RV dealers/installers were required to obtain a license in one or more of the other categories, depending on their business.

The bill:

- Requires DACS to establish by rule the requirements for agents qualified to administer LP gas examinations;
- Requires DACS to establish by rule a specific test for RV dealers/installers;
- Requires DACS to ensure that test content is specific to RV dealer/installer activities;
- Limits those who pass the category I RV dealer/installer test to category I activities solely related to the service and repair of RVs; and
- Clarifies that in order to be eligible to apply for certification as a master qualifier, “verifiable LP gas experience” or “professional certification” is required.

The bill is not expected to have a significant fiscal impact on state government.

The effective date of the bill is July 1, 2020.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### ***Liquefied Petroleum Gas***

The Department of Agriculture and Consumer Services (DACs) Bureau of Compliance is the primary agency charged with regulating the liquefied petroleum (LP) gas industry, including licensing, inspection, training, and examination requirements, in accordance with ch. 527, F.S. These responsibilities enable DACs to ensure that those persons engaged in LP gas-related business activities in this state are trained and that compliance with acceptable safety codes and standards is achieved statewide.<sup>1</sup>

LP gas is defined in statute as any material composed predominantly of any of the following hydrocarbons, or mixtures of the same:

- Propane;
- Propylene;
- Butanes (normal butane or isobutane); and
- Butylenes.<sup>2</sup>

Propane, the most widely used LP gas, is an energy source for hotels, restaurants, schools, hospitals, nursing homes, universities, private homes, recreational vehicles, agricultural and industrial facilities, and is used as an alternative fuel for vehicles.<sup>3</sup>

##### ***Business Licenses***

Current law provides licensing requirements for businesses that engage in certain LP gas-related activities, including sales, installations, service and repair work, manufacture of equipment, and other miscellaneous activities. DACs is required to license applicants that it determines to be competent, qualified, and trustworthy. Violations for willfully operating without a license is a third degree felony.

The license categories and associated fees are as follows:

<b><i>License Categories</i></b>	<b><i>License Fee Per Year</i></b>
Category I LP gas dealer	\$400
Category II LP gas dispenser	\$400
Category III LP gas cylinder exchange unit operator	\$65

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<sup>1</sup> Florida Department of Agriculture and Consumer Services, *Safe Dispensing of Propane, Propane Dispensing Unit Operator Training Manual*, <https://www.fdacs.gov/content/download/78592/file/Safe-Dispensing-of-Propane-Manual.pdf> (last visited Nov. 23, 2019).

<sup>2</sup> S. 527.01(1), F.S.

<sup>3</sup> Florida Department of Agriculture and Consumer Services, *supra* note 1, at 4.

<b>License Categories</b>	<b>License Fee Per Year</b>
Category IV dealer in appliances and equipment	\$65
Category V LP gas installer	\$200
Category VI miscellaneous operator	\$200 <sup>4</sup>

Licensees may elect to renew their license annually, biennially, or triennially, and are required to meet the same requirements and conditions, including fee amounts, for each licensed year. An expired license will become inoperative, and the fee for restoration of an expired license is equal to the original license fee, and must be paid before the licensee is allowed to resume operations.<sup>5</sup>

### **Training and Examinations**

DACS is responsible for enforcing reasonable standards of competency, including, but not limited to, the training, licensure, testing, and qualifying of persons participating in the LP gas industry.<sup>6</sup> DACS is also authorized to adopt rules that are:<sup>7</sup>

- In the interest of public health, safety, and welfare and to promote the safe handling of LP gas, equipment, and systems; and
- Reasonably necessary to assure the competence of persons to safely engage in the business of LP gas.

According to the DACs website, training is required for all employees of an LP gas-related business, and refresher training must be conducted at three-year intervals.<sup>8</sup>

In addition, any person applying for a license to engage in category I dealer, category II dispenser, or category V installer activities must prove competency by passing a written examination administered by DACS or its agent.<sup>9</sup>

### **Qualifiers**

Each category I dealer, category II dispenser, or category V installer licensee is required to employ a full-time employee who has received a qualifier certificate from DACS. Qualifiers are required to function in a supervisory capacity, and a separate qualifier must be present for every 10 employees.

An applicant for a qualifier certificate must:

- Be employed by a category I dealer, category II dispenser, or category V installer licensee;
- Submit to DACS a nonrefundable \$20 examination fee; and
- Pass a competency examination with a grade of 70 percent or above in each area tested.

Qualifier registration expires three years after the date of issuance. Qualifiers must renew their qualification 30 calendar days before expiration, upon:

- Application to DACS;

<sup>4</sup> S. 527.02, F.S.

<sup>5</sup> S. 527.03, F.S.

<sup>6</sup> S. 527.055(1)(b), F.S.

<sup>7</sup> S. 527.06

<sup>8</sup> Florida Department of Agriculture and Consumer Services, *LP Gas Training*, <https://www.fdacs.gov/Business-Services/LP-Gas-Inspection/LP-Gas-Training> (last visited Nov. 23, 2019).

<sup>9</sup> S. 527.0201(1), F.S.

- Payment of a \$20 renewal fee; and
- Documentation of the completion of a minimum of 16 hours of approved continuing education courses, as defined by DACS rule, during the previous three-year period.

Persons failing to renew before the expiration date must reapply and take a qualifier competency examination in order to reestablish qualifier status.<sup>10</sup>

### ***Master Qualifiers***

In addition to the qualifier requirements, each category I dealer and category V installer licensee is required to have a manager, owner, or employee at each licensed location who has received a master qualifier certificate from DACS. The master qualifier must be a manager, owner or someone otherwise primarily responsible for overseeing the operations of the licensed location and must provide documentation to DACS.

An applicant for a master qualifier certificate must:

- Be employed by a category I dealer or category V installer licensee;
- Submit to DACS a nonrefundable \$30 examination fee.
- Have been a registered qualifier for at least three years immediately preceding the application; and
- Pass a master qualifier competency examination with a grade of 70 percent or above in each area tested.<sup>11</sup>

Master qualifier registration expires three years after the date of issuance. Master qualifier registration renewals may be renewed by submitting to DACS:

- Proof of employment;
- Payment of a \$30 certificate renewal fee;
- Documentation of the completion of a minimum of 16 hours of approved continuing education courses, as defined by department rule, during the previous three-year period.<sup>12</sup>

### ***Insurance***

Prior to a license being issued, LP gas license applicants (other than category IV dealers in appliances and equipment, and category III LP gas cylinder exchange unit operators) are required to provide DACS with proof of bodily injury and property damage liability insurance coverage of at least \$1 million. However, the Commissioner of Agriculture is authorized to accept a \$1 million bond in lieu of the coverage requirement.<sup>13</sup>

For a class III license, such coverage of at least \$300,000 is required, and the Commissioner of Agriculture is authorized to accept a bond of at least \$300,000 in lieu of the requirement.<sup>14</sup>

### ***Recreational Vehicle Dealers or installers***

Propane is widely used in recreational vehicles (RVs) to regulate temperature, cook meals, provide hot water, and refrigerate food. Typically, motorized RVs have a fixed propane tank and towable RVs have a removable propane tank.<sup>15</sup> In Florida, the refilling, repairing, or replacing of propane gas and

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<sup>10</sup> S. 527.0201(1)-(4), F.S.

<sup>11</sup> S. 527.0201(5), F.S.

<sup>12</sup> S. 527.0201(5)(c), F.S.

<sup>13</sup> S. 527.04(1), F.S.

<sup>14</sup> S. 527.04(2), F.S.

<sup>15</sup> Winnebagolife, *An Easy Guide to Finding Propane for Your RV*, <https://winnebagolife.com/2019/05/finding-propane-for-your-rv> (last visited Nov. 23, 2019).

equipment must be completed by a properly trained employee of a licensed LP gas-related business.<sup>16</sup> These individuals are referred to by DACS as RV dealers/installers.<sup>17</sup>

Prior to July 2018, RV dealers/installers were classified separately in Florida law as a “category IV LP gas dispenser and recreational vehicle servicer,” and were defined as:

“any person engaging in the business of operating a liquefied petroleum gas dispensing unit for the purpose of serving liquid product to the ultimate consumer for industrial, commercial, or domestic use, and selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum gas, and whose services include the installation, service, or repair of recreational vehicle liquefied petroleum gas appliances and equipment.”

RVs were defined as:

“a motor vehicle designed to provide temporary living quarters for recreational, camping, or travel use, which has its own propulsion or is mounted on or towed by another motor vehicle.”

In order to engage in LP gas-related activities, category IV businesses were required to obtain licensure from DACS by meeting all applicable requirements within the chapter of law governing the LP gas industry, including training, examination, initial and renewal license fees, insurance coverage, and qualifiers.<sup>18</sup>

However, legislation passed during the 2018 Legislative Session that became effective July 2018, resulted in the category IV license type being deleted from statute.<sup>19</sup> According to DACS, the changes were sought to meet current business practices, to simplify the registration process and to streamline the regulatory structure. DACS collaborated with the Florida LP Gas Association and other industry leaders to modernize the LP gas statute.<sup>20</sup>

### **Current Situation**

Since July 2018, depending on the type of work being performed, a RV dealer/installer is now required to obtain either a category I dealer, II dispenser, or V installer license, and meet all applicable licensing and examination requirements in order to operate lawfully in the state. Current law does not provide a separate LP gas license category specifically for RV dealers/installers.

According to DACS, RV dealers/installers are required to obtain a category V installer license, and if the RV dealer/installer also dispenses LP gas, a category II dispenser license must also be obtained. In lieu of multiple licenses, RV dealers/installers may obtain a category I dealer license that allows them to perform both service and dispensing functions.<sup>21</sup>

According to DACS, there are 50 licensed RV dealers/installers in the state.<sup>22</sup>

### **Effect of Proposed Changes**

The bill requires DACS to specify by rule the requirements for agents qualified to administer written competency examinations required for LP gas licensure.

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<sup>16</sup> See ch. 527, F.S.

<sup>17</sup> Florida Department of Agriculture and Consumer Services, Agency Analysis of 2019 House Bill 343 (Oct. 21, 2019).

<sup>18</sup> See ch. 527, F.S. (2017).

<sup>19</sup> Ch. 2018-84, Laws of Fla.

<sup>20</sup> Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 553, p. 9 (Nov. 21, 2017).

<sup>21</sup> *Supra* note 18, p. 1 (Oct. 21, 2019).

<sup>22</sup> *Supra* note 18, p. 3 (Oct. 21, 2019).

The bill requires DACS to establish by rule a separate test for persons applying for a license to engage in category I activities solely related to the service or repair of RVs.

The bill requires the category I RV dealer/installer test to include and ensure competency in the following activities as they relate to RVs:

- Operating a LP gas dispensing unit to serve liquid product to a consumer for industrial, commercial, or domestic use;
- Selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of LP gas; and
- Installing, servicing, or repairing RV LP gas appliances and equipment.

The bill limits a qualifier or master qualifier who has passed the category I RV dealer/installer test to category I activities solely related to the service and repair of RVs.

In addition, the bill replaces the requirement that master qualifier applicants have at least 3-years experience as a registered qualifier to instead require such applicants to:

- Have a minimum of 3 years of verifiable LP gas experience; or
- Hold a professional certification by an LP gas manufacturer.

The bill also defines an RV as:

“a motor vehicle that is designed to provide temporary living quarters for recreational, camping, or travel use and that has its own propulsion or is mounted on or towed by another motor vehicle.”

#### B. SECTION DIRECTORY:

Section 1. Amends s. 527.01, F.S., defining the term "recreational vehicle."

Section 2. Amends s. 527.0201, F.S., relating to qualifiers; master qualifiers; examinations.

Section 3. Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Authorizing a separate and distinct category I RV dealer/installer licensure test, and allowing experience or professional certification in order to be eligible to apply for certification as a master

qualifier, may remove unnecessary barriers to professional licensure and employment in the category I RV dealer/installer industry, which may allow more workers to practice their chosen profession.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DACS will be required to adopt rules specifying the requirements for agents qualified to administer written competency examinations, and establish a separate test for persons applying for a license to engage in category I activities solely related to the service or repair of RVs. It appears that sufficient rulemaking authority exists in s. 527.06(1), F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 15, 2020, the Business & Professions Subcommittee adopted one strike-all amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Requires DACS to establish by rule the requirements for agents qualified to administer LP gas examinations;
- Requires DACS to establish by rule a specific test for RV dealers/installers;
- Requires DACS to ensure that test content is specific to RV dealer/installer activities;
- Limits those who pass the category I RV dealer/installer test to category I activities solely related to the service and repair of RVs; and
- Clarifies that in order to be eligible to apply for certification as a master qualifier, “verifiable LP gas experience” or “professional certification” is required.