

## Assembly Bill No. 2430

### CHAPTER 651

An act to amend Sections 4451, 4452, 4453, 4454, 4456, 4458 of, and to add Sections 4462, 4463, 4464, and 4465 to, the Public Utilities Code, and to repeal Part 21 (commencing with Section 42000) of the Revenue and Taxation Code, relating to public utilities.

[Approved by Governor September 19, 1996. Filed  
with Secretary of State September 19, 1996.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2430, Hauser. Public utilities: propane.

Existing law requires the Public Utilities Commission to undertake a propane safety inspection and enforcement program for propane distribution systems to ensure compliance with the federal pipeline standards by propane operators within the state.

Existing law requires the State Board of Equalization and the commission to establish a uniform billing surcharge designed to cover the commission's cost in implementing these provisions, with all surcharge fees except those required by the board for administering the trust fund to be deposited by the commission in the Public Utilities Commission Utilities Reimbursement Account in the General Fund, to be used, upon appropriation by the Legislature, for these purposes.

This bill would remove the provisions relating to the State Board of Equalization.

The bill would subject any distribution system to the enforcement program if any portion of the system is located in a public place, and would establish a maximum surcharge designed to partially cover the commission's costs of implementing the program.

This bill would provide that these provisions as further revised, shall not be implemented unless sufficient federal funding has been annually appropriated to the Public Utilities Commission to ensure that only those charges specifically fixed by law, and no additional charges, will be directly or indirectly passed on to California consumers.

*The people of the State of California do enact as follows:*

SECTION 1. Section 4451 of the Public Utilities Code is amended to read:

4451. As used in this chapter:

(a) “Supplier” means a person or corporation, other than a public utility, who sells propane and arranges for its delivery to the operator’s tank.

(b) “Distribution system” means a system of pipes, operated by a person or corporation other than a public utility, serving 10 or more customers, within a citywide area, an apartment house, a condominium, a cluster of homes, a shopping center, a combination of any of the above, a mobilehome park with two or more customers, or any system if a portion of the system is located in a public place, which is connected to a tank or tanks, for the purpose of distribution of propane to the end customers.

(c) “Operator” means the owner of the mobilehome park or the distribution system, or the designated responsible employee, manager, or legal representative.

(d) “Tank” means a vessel for the storage and distribution of propane.

(e) “Department” means the Department of Housing and Community Development.

(f) “Local enforcement agency” means the city, county, or city and county that has assumed the responsibility for the enforcement of Chapter 2 (commencing with Section 18300) of Part 2.1 of Division 13 of the Health and Safety Code.

(g) “Federal law” or “federal pipeline standards” means the Federal Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. Sec. 1671 et seq.) and the regulations contained in Parts 190, 191, and 192 of Title 49 of the Code of Federal Regulations.

(h) “Propane” means propane gas, also known as liquid petroleum gas or LPG.

(i) “NFPA 58” means National Fire Protection Association Standard number 58, which covers rules and standards for propane service. The Legislature finds and declares that NFPA 58 is overseen by a national committee that ensures that the standard incorporates the latest in current and approved technology.

(j) “Commission” means the Public Utilities Commission.

(k) “General Order (or GO) 112” means the commission’s general order that sets out rules governing design, construction, testing, maintenance, and operation of utility gas gathering, transmission, and distribution piping systems. GO 112 incorporates, by reference, all the pertinent federal laws defined in subdivision (g).

(l) “Public place” means any system supplying two or more customers where any portion is under a public right of way.

(m) “Trust fund” means the propane safety inspection and enforcement trust fund established pursuant to Section 4462.

SEC. 2. Section 4452 of the Public Utilities Code is amended to read:



4452. (a) On or before July 1, 1995, the commission shall undertake a propane safety inspection and enforcement program for propane distribution systems to ensure compliance with the federal pipeline standards by propane operators within the state. The commission may adopt rules, which shall be at least as stringent as the federal law, in order to protect the health and safety of customers served by propane distribution systems. Nothing in this chapter prohibits the commission from adopting more stringent standards than those in the federal pipeline standards.

(b) As part of this propane safety inspection and enforcement program, the commission inspectors may:

(1) Enter public or private property as is necessary to carry out this chapter.

(2) Enter and inspect all propane distribution systems, wherever situated, and inspect all documents (including those records listed in subdivision (a) of Section 4453), accommodations, equipment, or paraphernalia used in connection with or related to the distribution system.

(c) The commission's propane safety inspection and enforcement program shall not cover propane used by any of the following:

(1) Single customers served by single tanks.

(2) Distribution systems, other than mobilehome parks, that serve less than 10 customers, unless any portion of the system is located in a public place.

(3) Recreational vehicles and appliances.

(4) Vehicular fuel.

(5) Agricultural, commercial serving less than 10 customers, unless a portion of the system is located in a public place, industrial, and refinery systems.

(6) Cylinder exchange operations.

SEC. 3. Section 4453 of the Public Utilities Code is amended to read:

4453. (a) The commission shall conduct an initial inspection of each distribution system which shall take place on the premises. The inspection shall determine if the distribution system falls under the commission's safety program pursuant to paragraph (2) of subdivision (c) of Section 4452. If it is determined that it does not, then the inspection shall be terminated immediately. Otherwise, the inspection, and all followup inspections, shall consist of all of the following:

(1) A review of the adequacy of the operator's operation and maintenance plan, emergency plan, and system map or maps.

(2) Evaluation of the information contained in the required annual report.

(3) A review of the records of leak surveys and repairs, corrosion control, and cathodic protection of the system.



(4) If deemed appropriate from the review of the records, a physical inspection of the propane distribution system to ensure compliance with the federal law, the applicable sections of General Order 112 relating to the distribution system, NFPA 58, and any rules and orders adopted by the commission pursuant to this chapter.

(b) If the operator demonstrates compliance pursuant to subdivision (a), the distribution system shall thereafter be inspected once every five years for distribution systems with less than 100 customers, once every three years for distribution systems with 100 or more but less than 200 customers, and once every two years for distribution systems with 200 or more customers. The subsequent inspections shall consist of the elements specified in subdivision (a). However, the commission may institute an inspection for a distribution system of any size, at any time, if it determines, following a review of a subsequent annual report or receipt of a complaint, that an additional inspection is necessary.

(c) If the operator does not demonstrate compliance pursuant to subdivision (a), the distribution system may be inspected on an annual basis until such time as there is compliance, and thereafter, shall be inspected as specified in subdivision (b).

(d) If upon the initial inspection or any subsequent inspection, the commission determines the presence of a propane leak or other safety hazard in the distribution system that poses a significant or immediate danger to the health and safety of the customers, the distribution system may be inspected more frequently until the condition is corrected. Once corrected, the distribution system shall be inspected as specified in subdivision (b).

(e) The commission may require an operator to provide necessary assistance to commission inspectors in entering and inspecting the distribution systems, including, but not limited to:

(1) Allowing commission inspectors entry to the premises.

(2) Having, upon notice, the necessary records specified in subdivision (a) available for the commission inspector's review during the physical inspection.

(3) Assisting in surveying or uncovering portions of distribution system for purposes of inspection, verification, and testing.

(f) It shall be a violation for an operator to willfully obstruct a commission inspector's access, entry, or inspection of a distribution system or to remove a warning tag placed on the operator's tank by a commission inspector pursuant to subdivision (b) of Section 4456.

(g) The commission may enforce subdivision (f) by issuing a citation in the manner specified in subdivision (b) of Section 4457, and shall notify the department or local enforcement agency, the supplier serving the distribution system, the State Fire Marshal, local fire districts, and the operator of any citation issued pursuant to this subdivision.



(h) If the commission determined, upon inspection or a receipt of a complaint or disclosure, that a distribution system pursuant to paragraph (2) of subdivision (c) of Section 4452 is serving more than nine customers, or if any portion of the system is located in a public place, then the distribution system shall be subject to the commission's safety program as set forth in this chapter.

SEC. 4. Section 4454 of the Public Utilities Code is amended to read:

4454. (a) Every operator of a system serving 10 or more units or where any portion of the system is located in a public place, with the exception of mobilehome parks operators, shall prepare and submit to the commission annually a report on the distribution system. The report shall be submitted by March 31 of each year and shall cover the previous calendar year.

(b) In the case of mobilehome parks, the report shall be submitted to the commission at the same time the annual application for a permit to operate the mobilehome park is submitted to the department or the local enforcement agency.

(c) The report shall be prepared using a form or forms required by the commission, and shall contain the information the commission finds necessary to carry out the intent of this chapter. In developing the form or forms, the commission shall consult with interested parties to ensure that the form contains no more than the necessary and appropriate information to carry out the intent of this chapter.

(d) Upon receipt of the report, the commission shall examine the report for violations of either applicable federal pipeline safety laws or regulations or any applicable commission rules or orders. The commission may inspect the operator's distribution system for the purpose of verifying whether or not a violation of federal or state pipeline safety laws or regulations, or NFPA 58 rules, has occurred or is occurring.

SEC. 5. Section 4456 of the Public Utilities Code is amended to read:

4456. (a) If the commission determines the presence of a propane leak or other safety hazard in the distribution system, which poses a significant or immediate danger to the health and safety of the distribution system's customers, it shall notify the supplier serving the distribution system; the operator, who shall provide notice to the affected customers; and local authorities, as deemed necessary.

(b) The commission shall require the operator to take immediate steps to correct and repair the propane leak or other hazard. The operator of a mobilehome park shall obtain permits from the department or local enforcement agency, as required by Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code. Other operators shall obtain permits from local agencies, such as the county or fire district. The commission may



place a warning tag on the tank, may direct the serving supplier to terminate service to the tank, and may direct other local suppliers not to serve the tank, if an operator does not comply with this requirement. The cost of repair or corrective action shall be borne by the operator.

SEC. 6. Section 4458 of the Public Utilities Code is amended to read:

4458. (a) The commission shall establish a surcharge to be paid by operators with distribution systems subject to this chapter on propane purchased for distribution to their customers. The surcharge shall be designed to partially recover the commission's costs of the propane safety inspection and enforcement program required by this chapter, and to partially recover the commission's costs of collecting and administering the surcharge. The commission shall collect the surcharge from the operators and deposit it into the Propane Safety Inspection and Enforcement Program Trust Fund, which shall be used, upon appropriation, for the purposes of this chapter. The surcharge shall be assessed on a per space or lot basis, shall not exceed twenty-five cents (\$0.25) per month, and shall be collected by the commission on an annual basis.

(b) Notwithstanding any other provision of law or local ordinance, rule, regulation, or initiative measure, the operator shall be entitled to recover the surcharge collected pursuant to subdivision (a) from its customers. However, the charge to any customer, to allow for the operator's recovery, shall not exceed the actual surcharge.

SEC. 7. Section 4462 is added to the Public Utilities Code, to read:

4462. (a) This chapter hereby creates a trust fund known as the propane safety inspection and enforcement program trust fund. The trust fund shall be administered by the commission.

(b) The trust fund shall be used to partially support the funding requirements of the propane safety inspection and enforcement program of the commission pursuant to this chapter.

SEC. 8. Section 4463 is added to the Public Utilities Code, to read:

4463. Notwithstanding any other provision of law, this chapter, as added by Chapter 388 of the Statutes of 1994, shall not be implemented unless sufficient federal funding has been annually appropriated to the Public Utilities Commission to ensure that only those charges specifically fixed by law, and no additional charges shall, directly or indirectly, be passed on to California consumers.

SEC. 9. Section 4464 is added to the Public Utilities Code, to read:

4464. (a) The commission in administering the trust fund, shall be responsible for the identification of the pertinent operators and for the collection of the surcharges from the operators.

(b) The commission may use a balancing account, in conjunction with the trust fund, to account for any overcollection or undercollection on a yearly basis.



(c) The commission's administrative responsibility and surcharge collection shall exempt all propane used by the following:

- (1) Agricultural, commercial serving less than 10 customers unless a portion of the system is located in a public place, industrial, and refinery systems.
- (2) Recreational vehicles and appliances.
- (3) Vehicular fuel.
- (4) Single customers served by single tanks.
- (5) Distribution systems, other than mobilehome parks, which serve less than 10 customers, unless a portion of the system is located in a public place.
- (6) Cylinder exchange operations.

SEC. 10. Section 4465 is added to the Public Utilities Code, to read:

4465. (a) If any operator subject to this chapter is in default of the payment of the surcharge required by this chapter for a period of 30 days or more, the commission may estimate from all available information the appropriate fee and may add to the amount of the estimated fee a penalty not to exceed 25 percent of the amount on account of the failure, refusal, or neglect to pay the fee, and the operator shall be estopped to complain of the amount of the commission's estimate.

(b) The commission may bring an action, in its own name or in the name of the people of the state, in any court of competent jurisdiction, for the collection of delinquent fees estimated under subdivision (a) of this section, together with a penalty of 25 percent for the delinquency.

SEC. 11. Part 21 (commencing with Section 42000) of the Revenue and Taxation Code is repealed.

