

Senate Bill 91

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Department of State Police)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Increases examination fee charged applicants for licensing related to liquefied petroleum gas.

Increases license fee and delinquency fee for LP gas installation license, LP gas fitter license and LP gas truck equipment license. Makes second increase in license fees on July 1, 2011. Deletes prohibition against transfer of licenses.

Increases installation fee, inspection fee, reinspection fee and delinquency fees for liquefied petroleum gas tanks. Makes second increase in installation fee, inspection fee and reinspection fee on July 1, 2011.

Corrects terminology.

Replaces obsolete reference to defunct federal agency.

A BILL FOR AN ACT

1
2 Relating to liquefied petroleum gas; creating new provisions; and amending ORS 197.015, 478.960,
3 480.410, 480.420, 480.434, 480.436, 480.445, 480.450 and 650.120.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 197.015 is amended to read:

6 197.015. As used in ORS chapters 195, 196 and 197, unless the context requires otherwise:

7 (1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and
8 land use regulations, land use regulation or plan or regulation amendment complies with the goals
9 or certifies that Metro land use planning goals and objectives, Metro regional framework plan,
10 amendments to Metro planning goals and objectives or amendments to the Metro regional frame-
11 work plan comply with the statewide planning goals.

12 (2) "Board" means the Land Use Board of Appeals.

13 (3) "Carport" means a stationary structure consisting of a roof with its supports and not more
14 than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

15 (4) "Commission" means the Land Conservation and Development Commission.

16 (5) "Comprehensive plan" means a generalized, coordinated land use map and policy statement
17 of the governing body of a local government that interrelates all functional and natural systems and
18 activities relating to the use of lands, including but not limited to sewer and water systems, trans-
19 portation systems, educational facilities, recreational facilities, and natural resources and air and
20 water quality management programs. "Comprehensive" means all-inclusive, both in terms of the
21 geographic area covered and functional and natural activities and systems occurring in the area
22 covered by the plan. "General nature" means a summary of policies and proposals in broad catego-
23 ries and does not necessarily indicate specific locations of any area, activity or use. A plan is "co-
24 ordinated" when the needs of all levels of governments, semipublic and private agencies and the
25 citizens of Oregon have been considered and accommodated as much as possible. "Land" includes
26 water, both surface and subsurface, and the air.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (6) "Department" means the Department of Land Conservation and Development.

2 (7) "Director" means the Director of the Department of Land Conservation and Development.

3 (8) "Goals" means the mandatory statewide planning standards adopted by the commission pur-
4 suant to ORS chapters 195, 196 and 197.

5 (9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation,
6 adoption and implementation of comprehensive plans in compliance with goals and to aid state
7 agencies and special districts in the preparation, adoption and implementation of plans, programs
8 and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state
9 agencies, cities, counties and special districts to a single approach.

10 (10) "Land use decision":

11 (a) Includes:

12 (A) A final decision or determination made by a local government or special district that con-
13 cerns the adoption, amendment or application of:

14 (i) The goals;

15 (ii) A comprehensive plan provision;

16 (iii) A land use regulation; or

17 (iv) A new land use regulation;

18 (B) A final decision or determination of a state agency other than the commission with respect
19 to which the agency is required to apply the goals; or

20 (C) A decision of a county planning commission made under ORS 433.763;

21 (b) Does not include a decision of a local government:

22 (A) That is made under land use standards that do not require interpretation or the exercise
23 of policy or legal judgment;

24 (B) That approves or denies a building permit issued under clear and objective land use stan-
25 dards;

26 (C) That is a limited land use decision;

27 (D) That determines final engineering design, construction, operation, maintenance, repair or
28 preservation of a transportation facility that is otherwise authorized by and consistent with the
29 comprehensive plan and land use regulations;

30 (E) That is an expedited land division as described in ORS 197.360;

31 (F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal
32 of a [liquid] **liquefied** petroleum gas container or receptacle regulated exclusively by the State Fire
33 Marshal under ORS 480.410 to 480.460; or

34 (G) That approves or denies approval of a final subdivision or partition plat or that determines
35 whether a final subdivision or partition plat substantially conforms to the tentative subdivision or
36 partition plan;

37 (c) Does not include a decision by a school district to close a school;

38 (d) Does not include authorization of an outdoor mass gathering as defined in ORS 433.735, or
39 other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120
40 hours in any three-month period; and

41 (e) Does not include:

42 (A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;

43 or

44 (B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after
45 a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179.

1 (11) “Land use regulation” means any local government zoning ordinance, land division ordi-
 2 nance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for
 3 implementing a comprehensive plan.

4 (12) “Limited land use decision”:

5 (a) Means a final decision or determination made by a local government pertaining to a site
 6 within an urban growth boundary that concerns:

7 (A) The approval or denial of a tentative subdivision or partition plan, as described in ORS
 8 92.040 (1).

9 (B) The approval or denial of an application based on discretionary standards designed to reg-
 10 ulate the physical characteristics of a use permitted outright, including but not limited to site re-
 11 view and design review.

12 (b) Does not mean a final decision made by a local government pertaining to a site within an
 13 urban growth boundary that concerns approval or denial of a final subdivision or partition plat or
 14 that determines whether a final subdivision or partition plat substantially conforms to the tentative
 15 subdivision or partition plan.

16 (13) “Local government” means any city, county or metropolitan service district formed under
 17 ORS chapter 268 or an association of local governments performing land use planning functions
 18 under ORS 195.025.

19 (14) “Metro” means a metropolitan service district organized under ORS chapter 268.

20 (15) “Metro planning goals and objectives” means the land use goals and objectives that a met-
 21 ropolitan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not con-
 22 stitute a comprehensive plan.

23 (16) “Metro regional framework plan” means the regional framework plan required by the 1992
 24 Metro Charter or its separate components. Neither the regional framework plan nor its individual
 25 components constitute a comprehensive plan.

26 (17) “New land use regulation” means a land use regulation other than an amendment to an
 27 acknowledged land use regulation adopted by a local government that already has a comprehensive
 28 plan and land regulations acknowledged under ORS 197.251.

29 (18) “Person” means any individual, partnership, corporation, association, governmental subdi-
 30 vision or agency or public or private organization of any kind. The Land Conservation and Devel-
 31 opment Commission or its designee is considered a person for purposes of appeal under ORS
 32 chapters 195 and 197.

33 (19) “Special district” means any unit of local government, other than a city, county, metropol-
 34 itan service district formed under ORS chapter 268 or an association of local governments per-
 35 forming land use planning functions under ORS 195.025, authorized and regulated by statute and
 36 includes but is not limited to water control districts, domestic water associations and water coop-
 37 eratives, irrigation districts, port districts, regional air quality control authorities, fire districts,
 38 school districts, hospital districts, mass transit districts and sanitary districts.

39 (20) “Urban unincorporated community” means an area designated in a county’s acknowledged
 40 comprehensive plan as an urban unincorporated community after December 5, 1994.

41 (21) “Voluntary association of local governments” means a regional planning agency in this
 42 state officially designated by the Governor pursuant to the federal Office of Management and Budget
 43 Circular A-95 as a regional clearinghouse.

44 (22) “Wetlands” means those areas that are inundated or saturated by surface or ground water
 45 at a frequency and duration that are sufficient to support, and that under normal circumstances do

1 support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

2 **SECTION 2.** ORS 478.960 is amended to read:

3 478.960. (1) No one, within the boundaries of a district, shall cause or permit to be initiated or
4 maintained on one's own property, or cause to be initiated or maintained on the property of another,
5 any open burning of commercial waste, demolition material, domestic waste, industrial waste, land
6 clearing debris or field burning without first securing permission from the fire chief of the district
7 and complying with the direction of the fire chief. A deputy of a fire chief has the power to perform
8 any act or duty of the fire chief under this section.

9 (2) The fire chief shall prescribe conditions upon which permission is granted and which are
10 necessary to be observed in setting the fire and preventing it from spreading and endangering life
11 or property or endangering the air resources of this state. The Environmental Quality Commission
12 shall notify the State Fire Marshal of the type of and time for burning to be allowed on each day
13 under schedules adopted pursuant to ORS 468A.570 and ORS 468A.595. The State Fire Marshal shall
14 cause all fire chiefs and their deputies in the affected area to be notified of the type and time for
15 burning to be allowed on each day with updating messages each day as required. A fire chief or
16 deputy shall grant permission only in accordance with the schedule of the Environmental Quality
17 Commission but may reduce hours to be allowed for burning if necessary to prevent danger to life
18 or property from fire. The State Fire Marshal may refuse, revoke or postpone permission when
19 necessary in the judgment of the State Fire Marshal to prevent danger to life or property from fire,
20 notwithstanding any determination by the fire chief.

21 (3) Nothing in this section relieves a person starting a fire from responsibility for providing
22 adequate protection to prevent injury or damage to the person or property of another. If such
23 burning results in the escape of fire and injury or damage to the person or property of another, such
24 escape and damage or injury constitutes prima facie evidence that the burning was not safe.

25 (4) Within a district, no person shall, during the fire season declared under ORS 477.505, operate
26 any equipment in forest harvesting or agricultural operations powered by an internal combustion
27 engine on or within one-eighth of one mile of forestland unless each piece of equipment is provided
28 with a fire extinguisher of sufficient size and capacity and with such other tools and fire-fighting
29 equipment as may be reasonably required by the fire chief of the district. The provisions of this
30 subsection do not apply to machinery regulated by ORS chapter 477.

31 (5) No person shall dispose of any building or building wreckage within a district by fire without
32 having first secured permission therefor from the fire chief. No person shall refuse to comply with
33 any reasonable requirements of the fire chief as to the safeguarding of such fire from spreading.

34 (6) This section is not intended to limit the authority of a district to adopt a fire prevention code
35 as provided in ORS 478.910 to 478.940 or to issue permits when the burning is done by mechanical
36 burners fired by [*liquid*] **liquefied** petroleum gas.

37 (7) The fire chief shall maintain records of all permits and the conditions thereof, if any, that
38 are issued for field burning under this section and shall submit at such times, as the Environmental
39 Quality Commission shall require such records or summaries thereof to the commission. The Envi-
40 ronmental Quality Commission shall provide forms for the reports required under this subsection.

41 (8) Notwithstanding any other provision of this section:

42 (a) A permit is required for field burning authorized pursuant to ORS 468A.550 to 468A.620 and
43 468A.992.

44 (b) For a permit for the propane flaming of mint stubble, the fire chief may only prescribe con-
45 ditions necessary to prevent the spread of fire or to prevent endangering life or property and may

1 refuse, revoke or postpone permission to conduct the propane flaming only when necessary to pre-
2 vent danger to life or property from fire.

3 **SECTION 3.** ORS 480.410 is amended to read:

4 480.410. As used in ORS 480.420 to 480.460, "LP gas" or "[liquid] **liquefied** petroleum gas" means
5 any liquid composed predominately of any of the following hydrocarbons or mixtures of the same:
6 Propane, propylene, butanes (normal butane or isobutane) and butylenes.

7 **SECTION 4.** ORS 480.420 is amended to read:

8 480.420. (1) The State Fire Marshal shall make, promulgate and enforce regulations establishing
9 minimum general standards for the design, construction, location, installation and operation of
10 equipment for storing, handling, transporting by tank truck or tank trailer and utilizing [liquid]
11 **liquefied** petroleum gases and specifying the degree of odorization of the gases, and shall establish
12 standards and rules for the issuance, suspension and revocation of licenses and permits provided in
13 ORS 480.410 to 480.460.

14 (2) The regulations required shall be such as are reasonably necessary for the protection of the
15 health, welfare and safety of the public and of persons using or handling such materials, and shall
16 be in substantial conformity with the generally accepted standards of safety relating to the same
17 matter. Regulations in substantial conformity with the published standards of the National Fire
18 Protection Association pamphlet No. 58 and pamphlet No. 59 for the design, installation and con-
19 struction of containers and equipment thereto pertaining, for the storage and handling of liquefied
20 petroleum gases, including utility gas plants, as recommended by the National Fire Protection As-
21 sociation, and the published standards of the National Fire Protection Association pamphlet No. 54
22 for liquefied petroleum gas piping and appliance installations in buildings, shall be deemed to be in
23 substantial conformity with the generally accepted standards of safety relating to the same subject
24 matter.

25 **SECTION 5.** ORS 480.434 is amended to read:

26 480.434. (1) The State Fire Marshal shall examine applicants for licenses required under ORS
27 480.410 to 480.460 as to their knowledge of LP gas, its properties, related equipment and applicable
28 safety regulations. An applicant for examination must submit an examination application, accompa-
29 nied by an examination fee of [~~\$40~~] **\$55**, prior to the examination.

30 (2) LP gas fitters and drivers must be examined and obtain a license after not more than a
31 60-day probationary period of on-the-job training under licensed supervision.

32 (3) The State Fire Marshal shall examine LP gas installation license applicants regarding the
33 applicable code and statutory responsibilities. The successful examination of one member of a firm
34 or executive of a corporation at each business or dealership location fulfills the examination re-
35 quirement on behalf of the firm or corporation. Each LP gas business or dealership location must
36 obtain an LP gas installation license.

37 (4) If satisfied that the applicant has the requisite knowledge, the State Fire Marshal shall issue
38 the appropriate license or licenses to the applicant, as provided in ORS 480.410 to 480.460.

39 **SECTION 6.** ORS 480.436 is amended to read:

40 480.436. (1) The annual fee for the LP gas installation license is [~~\$85~~] **\$120**.

41 (2) The biennial fee for an LP gas fitter license or an LP gas truck equipment license is [~~\$15~~]
42 **\$50**.

43 (3) All licenses must be renewed on or before a date specified by the State Fire Marshal. Unless
44 revoked or suspended by the State Fire Marshal for failure to comply with the provisions of ORS
45 480.410 to 480.460, an LP gas installation license continues in force for one year from the date of

1 issuance and is not transferable. An LP gas fitter license or an LP gas truck equipment license
 2 continues in force for two years from the date of issuance [*and is not transferable*]. The State Fire
 3 Marshal, by rule, may establish a system for staggered license expiration dates that includes pro-
 4 rated fees for periods of less than one year for an LP gas installation license and less than two years
 5 for an LP gas fitter license or an LP gas truck equipment license.

6 (4) If the fees provided for in this section are due and payable and are not paid within 30 days
 7 after service of written notice by the State Fire Marshal therefor, the fees are delinquent and a
 8 penalty equal to the greater of 10 percent of the license fee amount or [~~\$15~~] **\$30** is imposed for the
 9 delinquency.

10 **SECTION 7.** ORS 480.436, as amended by section 6 of this 2009 Act, is amended to read:

11 480.436. (1) The annual fee for the LP gas installation license is [~~\$120~~] **\$130**.

12 (2) The biennial fee for an LP gas fitter license or an LP gas truck equipment license is [~~\$50~~]
 13 **\$60**.

14 (3) All licenses must be renewed on or before a date specified by the State Fire Marshal. Unless
 15 revoked or suspended by the State Fire Marshal for failure to comply with the provisions of ORS
 16 480.410 to 480.460, an LP gas installation license continues in force for one year from the date of
 17 issuance. An LP gas fitter license or an LP gas truck equipment license continues in force for two
 18 years from the date of issuance. The State Fire Marshal, by rule, may establish a system for stag-
 19 gered license expiration dates that includes prorated fees for periods of less than one year for an
 20 LP gas installation license and less than two years for an LP gas fitter license or an LP gas truck
 21 equipment license.

22 (4) If the fees provided for in this section are due and payable and are not paid within 30 days
 23 after service of written notice by the State Fire Marshal therefor, the fees are delinquent and a
 24 penalty equal to the greater of 10 percent of the license fee amount or \$30 is imposed for the de-
 25 linquency.

26 **SECTION 8.** ORS 480.445 is amended to read:

27 480.445. (1) The regulation of [*liquid*] **liquefied** petroleum gas containers or receptacles by the
 28 State Fire Marshal pursuant to ORS 480.410 to 480.460 is not a program affecting land use under
 29 ORS 197.180.

30 (2) A local government may not regulate the siting, installation, maintenance or removal of a
 31 [*liquid*] **liquefied** petroleum gas container or receptacle regulated by the State Fire Marshal pursu-
 32 ant to ORS 480.410 to 480.460, except as provided in subsection (3) of this section or ORS 480.450
 33 (7).

34 (3) A local government may:

35 (a) Regulate the siting and installation of a [*liquid*] **liquefied** petroleum gas container or recep-
 36 tacle with a capacity of more than 1,200 gallons or a group of containers and receptacles with an
 37 aggregate capacity of more than 4,000 gallons to protect the public health and safety.

38 (b) Regulate the siting and installation of [*liquid*] **liquefied** petroleum gas containers or recep-
 39 tacles in a flood plain regulated by local ordinance.

40 (c) Regulate the siting and installation of [*liquid*] **liquefied** petroleum gas containers or recep-
 41 tacles that are not accessory to an authorized or authorizable land use.

42 (d) Prohibit the siting and installation of [*liquid*] **liquefied** petroleum gas containers or recep-
 43 tacles of specified types or sizes in specific zones within an urban growth boundary to protect the
 44 public health and safety.

45 (e) Regulate, through the local government's assistant to the State Fire Marshal as described in

1 ORS 476.060, the placement of [*liquid*] **liquefied** petroleum gas containers or receptacles for the
2 purpose of fire prevention.

3 **SECTION 9.** ORS 480.450 is amended to read:

4 480.450. (1) The installer shall notify the State Fire Marshal, before the last day of each month,
5 of all new installations made during the preceding month of containers or receptacles for [*liquid*]
6 **liquefied** petroleum gas, including installations for private homes and apartments. The installer shall
7 certify on a form provided by the State Fire Marshal that all of the new installations are duly and
8 properly reported. The State Fire Marshal may require that the notification include the location and
9 description of the installation and the name of the user. All fees due and payable must accompany
10 the notification. The replacement of empty containers or receptacles with other containers con-
11 structed in accordance with [*Interstate Commerce Commission*] **United States Department of**
12 **Transportation** specifications is not a new installation or change in the original installation that
13 requires notification to the State Fire Marshal or necessitates further inspection of the installation.
14 The State Fire Marshal shall collect from the installer an installation fee of [~~\$35~~] **\$45** for each tank
15 installed or for all tanks at the installation if the total combined capacity is 200 gallons or less. The
16 State Fire Marshal or deputies of the fire marshal or assistants shall inspect a reasonable number
17 of the installations and maintain a record of the inspections in the office of the State Fire Marshal.

18 (2) In addition to any installation or inspection fee, the State Fire Marshal may charge a plan
19 review fee, not to exceed \$100, for any [*liquid*] **liquefied** petroleum gas container and receptacle
20 plan review required under a uniform fire code prescribed by the State Fire Marshal by rule.

21 (3) After the initial installation, [*liquid*] **liquefied** petroleum gas containers may be inspected
22 once every 10 years except when changes have been made in the original installation. An installer
23 making changes must notify the State Fire Marshal of the changes in the same manner provided in
24 this section for new installations. The State Fire Marshal shall collect from the owner a fee of
25 [~~\$35~~] **\$45** for the inspection of each container. The manner of inspection, requirement of corrections,
26 satisfaction of requirements and collection of fees due and payable must conform with the provisions
27 of ORS 480.410 to 480.460 for new installations. Upon request of the State Fire Marshal, LP gas in-
28 stallation licensees shall furnish a list of the locations of 10-year old installations that they service.

29 (4) If, upon inspection of any tank, the new installation does not comply with the requirements
30 of the State Fire Marshal, the State Fire Marshal shall instruct the installer as to what corrections
31 are necessary for compliance with the State Fire Marshal's requirements. The installer of the new
32 installation shall, within the time set by the State Fire Marshal, not to exceed 60 days after notifi-
33 cation, notify the State Fire Marshal that the new installation complies with the requirements of the
34 fire marshal. If the installer fails to notify the State Fire Marshal, or the State Fire Marshal has
35 reason to believe that the corrections have not been made, the State Fire Marshal shall reinspect
36 the new installation and shall collect from the installer an additional fee of [~~\$24~~] **\$100**. The user,
37 not the installer, shall pay the additional fee resulting from actions of the user that require cor-
38 rection to achieve compliance with the requirements of the State Fire Marshal.

39 (5) A person who receives notice from the State Fire Marshal must correct any improper in-
40 stallation within the time set by the State Fire Marshal, not to exceed 60 days after receipt of the
41 notice.

42 (6) If the fees provided for in this section are due and payable and are not paid within 30 days
43 after service of written notice by the State Fire Marshal therefor, or if the installer fails to notify
44 the State Fire Marshal by the last day of the month succeeding the month a new installation is made
45 or a change is made requiring an inspection, the fees are delinquent and a penalty equal to the

1 greater of 10 percent of the fee amount or [~~\$15~~] **\$30**, is imposed for the delinquency. The State Fire
 2 Marshal shall collect all fees and penalties in the name of the State of Oregon in the same manner
 3 that other debts are collected.

4 (7) The provisions of this section do not apply to [~~liquid~~] **liquefied** petroleum gas installations
 5 if made entirely within the jurisdiction of a governmental subdivision granted the exemption pro-
 6 vided by ORS 476.030 (3) and written evidence of the licensing of the installation by the approved
 7 authority is submitted to the State Fire Marshal. The provisions of this section do not apply to LP
 8 gas installations made in manufactured dwellings or recreational vehicles that are constructed or
 9 altered in accordance with applicable rules of the Department of Consumer and Business Services.

10 **SECTION 10.** ORS 480.450, as amended by section 9 of this 2009 Act, is amended to read:

11 480.450. (1) The installer shall notify the State Fire Marshal, before the last day of each month,
 12 of all new installations made during the preceding month of containers or receptacles for liquefied
 13 petroleum gas, including installations for private homes and apartments. The installer shall certify
 14 on a form provided by the State Fire Marshal that all of the new installations are duly and properly
 15 reported. The State Fire Marshal may require that the notification include the location and de-
 16 scription of the installation and the name of the user. All fees due and payable must accompany the
 17 notification. The replacement of empty containers or receptacles with other containers constructed
 18 in accordance with United States Department of Transportation specifications is not a new instal-
 19 lation or change in the original installation that requires notification to the State Fire Marshal or
 20 necessitates further inspection of the installation. The State Fire Marshal shall collect from the in-
 21 staller an installation fee of [~~\$45~~] **\$50** for each tank installed or for all tanks at the installation if
 22 the total combined capacity is 200 gallons or less. The State Fire Marshal or deputies of the fire
 23 marshal or assistants shall inspect a reasonable number of the installations and maintain a record
 24 of the inspections in the office of the State Fire Marshal.

25 (2) In addition to any installation or inspection fee, the State Fire Marshal may charge a plan
 26 review fee, not to exceed \$100, for any liquefied petroleum gas container and receptacle plan review
 27 required under a uniform fire code prescribed by the State Fire Marshal by rule.

28 (3) After the initial installation, liquefied petroleum gas containers may be inspected once every
 29 10 years except when changes have been made in the original installation. An installer making
 30 changes must notify the State Fire Marshal of the changes in the same manner provided in this
 31 section for new installations. The State Fire Marshal shall collect from the owner a fee of [~~\$45~~]
 32 **\$50** for the inspection of each container. The manner of inspection, requirement of corrections, sat-
 33 isfaction of requirements and collection of fees due and payable must conform with the provisions
 34 of ORS 480.410 to 480.460 for new installations. Upon request of the State Fire Marshal, LP gas in-
 35 stallation licensees shall furnish a list of the locations of 10-year old installations that they service.

36 (4) If, upon inspection of any tank, the new installation does not comply with the requirements
 37 of the State Fire Marshal, the State Fire Marshal shall instruct the installer as to what corrections
 38 are necessary for compliance with the State Fire Marshal's requirements. The installer of the new
 39 installation shall, within the time set by the State Fire Marshal, not to exceed 60 days after notifi-
 40 cation, notify the State Fire Marshal that the new installation complies with the requirements of the
 41 fire marshal. If the installer fails to notify the State Fire Marshal, or the State Fire Marshal has
 42 reason to believe that the corrections have not been made, the State Fire Marshal shall reinspect
 43 the new installation and shall collect from the installer an additional fee of [~~\$100~~] **\$125**. The user,
 44 not the installer, shall pay the additional fee resulting from actions of the user that require cor-
 45 rection to achieve compliance with the requirements of the State Fire Marshal.

1 (5) A person who receives notice from the State Fire Marshal must correct any improper in-
 2 stallation within the time set by the State Fire Marshal, not to exceed 60 days after receipt of the
 3 notice.

4 (6) If the fees provided for in this section are due and payable and are not paid within 30 days
 5 after service of written notice by the State Fire Marshal therefor, or if the installer fails to notify
 6 the State Fire Marshal by the last day of the month succeeding the month a new installation is made
 7 or a change is made requiring an inspection, the fees are delinquent and a penalty equal to the
 8 greater of 10 percent of the fee amount or \$30, is imposed for the delinquency. The State Fire
 9 Marshal shall collect all fees and penalties in the name of the State of Oregon in the same manner
 10 that other debts are collected.

11 (7) The provisions of this section do not apply to liquefied petroleum gas installations if made
 12 entirely within the jurisdiction of a governmental subdivision granted the exemption provided by
 13 ORS 476.030 (3) and written evidence of the licensing of the installation by the approved authority
 14 is submitted to the State Fire Marshal. The provisions of this section do not apply to LP gas in-
 15 stallations made in manufactured dwellings or recreational vehicles that are constructed or altered
 16 in accordance with applicable rules of the Department of Consumer and Business Services.

17 **SECTION 11.** ORS 650.120 is amended to read:

18 650.120. For the purposes of ORS 650.120 to 650.170:

19 (1) "Dealer" means any person who has been issued a vehicle dealer certificate under ORS
 20 822.020 and pursuant to a franchise from a manufacturer, distributor or importer engages in buying,
 21 selling, leasing or exchanging new motor vehicles.

22 (2) "Dealership" means the location from which a dealer buys, sells, leases, trades, stores, takes
 23 on consignment or in any other manner deals in new motor vehicles.

24 (3) "Distributor" means a person who sells or distributes motor vehicles other than motor homes
 25 to motor vehicle dealers.

26 (4) "Fleet owner" means a person in this state who at one time buys or leases for use in a
 27 business:

28 (a) 15 or more motor vehicles with a gross vehicle weight rating of less than 8,500 pounds; or

29 (b) 50 or more vehicles with a gross vehicle weight rating of 8,500 pounds or more.

30 (5) "Franchise" means a contract or agreement under which:

31 (a) The franchisee is granted the right to sell, lease and exchange new motor vehicles manu-
 32 factured, distributed or imported by the franchisor;

33 (b) The franchise is an independent business operating as a component of a distribution or
 34 marketing system prescribed in substantial part by the franchisor;

35 (c) The franchisee's business is substantially associated with the trademark, trade name, com-
 36 mercial symbol or advertisements designating the franchisor or the products distributed by the
 37 franchisor;

38 (d) The franchisee's business is substantially reliant on the franchisor for a continued supply of
 39 motor vehicles, parts and accessories;

40 (e) The franchisee is granted the right to perform warranty repairs authorized by the franchisor;
 41 and

42 (f) The franchisee is granted the right to sell, install and exchange parts, equipment and acces-
 43 sories manufactured, distributed or imported by the franchisor for use in or on motor vehicles.

44 (6) "Franchisee" means a dealer to whom a franchise is granted.

45 (7) "Franchisor" means a manufacturer, distributor or importer who grants a franchise to a

1 dealer.

2 (8) "Importer" means a person who transports or arranges for the transportation of any foreign
3 manufactured new motor vehicle into the United States for sale in this state.

4 (9) "Manufacturer" means a person who manufactures or assembles motor vehicles or who
5 manufactures or installs on previously assembled truck chassis special bodies or equipment, other
6 than motor homes, that when installed forms an integral part of the motor vehicle and constitutes
7 a major manufacturing alteration and which completed unit is owned by the manufacturer.

8 (10) "Manufacturer's suggested retail price" means the retail price of the new motor vehicle
9 suggested by the manufacturer, including the retail delivered price suggested by the manufacturer
10 for each accessory or item of optional equipment physically attached to the new motor vehicle at
11 the time of delivery to the dealer that is not included within the retail price suggested by the
12 manufacturer for the new motor vehicle without the accessory or optional equipment.

13 (11) "Motor home" means a motor vehicle that is designed to provide temporary living quarters
14 and is built into an integral part of, or is permanently attached to, a self-propelled motor vehicle
15 chassis or van. The vehicle must contain permanently installed independent life support systems and
16 provide at least four of the following facilities:

- 17 (a) Cooking;
- 18 (b) Refrigeration or ice box;
- 19 (c) Self-contained toilet;
- 20 (d) Heating or air conditioning;
- 21 (e) A potable water supply system including a faucet and sink; or
- 22 (f) A separate 110-120 volt electrical power supply or *liquid* **liquefied** petroleum gas supply.

23 (12) "Motor vehicle" means:

- 24 (a) A self-propelled device, other than a motor home, used:
 - 25 (A) For transportation of persons or property upon a public highway; or
 - 26 (B) In construction; or

27 (b) A trailer with a gross vehicle weight rating of 20,000 pounds or more that is used for com-
28 mercial transportation on a public highway.

29 (13) "Qualified vendor" means a person with a contract or agreement to sell goods or services
30 to a manufacturer, distributor or importer.

31 (14) "Relevant market area" means:

32 (a) For a dealer primarily of motor vehicles with a gross vehicle weight rating of less than 8,500
33 pounds, a circular area around an existing dealership of:

- 34 (A) Not less than a 10-mile radius from the dealership site;
- 35 (B) Not less than a 15-mile radius from the dealership site if the population is less than 250,000
36 within a 10-mile radius from the existing dealership and 150,000 or more within a 15-mile radius from
37 the existing dealership;

38 (C) Not less than a 20-mile radius from the dealership site if the population is less than 150,000
39 within a 15-mile radius from the existing dealership; or

40 (D) The area of sales and service responsibility determined under the franchise agreement if the
41 area is larger than the areas provided for in this paragraph.

42 (b) For a dealer primarily of motor vehicles with a gross vehicle weight rating of 8,500 pounds
43 or more, a circular area around an existing dealership of:

- 44 (A) Not less than a 25-mile radius from the dealership site; or
- 45 (B) The area of sales and service responsibility determined under the franchise agreement if the

1 area is larger than the area provided for in subparagraph (A) of this paragraph.

2 (15) "Replacement dealer" means any person who, at a dealership where the former dealer was
3 franchised by the same manufacturer, distributor or importer, has been issued a vehicle dealer cer-
4 tificate under ORS 822.020 and pursuant to a franchise from a manufacturer, distributor or importer
5 engages in buying, selling, leasing or exchanging new motor vehicles.

6 **SECTION 12. The amendments to ORS 480.436 and 480.450 by sections 7 and 10 of this 2009**
7 **Act become operative July 1, 2011.**

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