

COMBUSTIBLE AND FLAMMABLE LIQUIDS ACT
Act of Feb. 11, 1998, P.L. 58, No. 15
AN ACT

Cl. 35

Providing for the regulation of combustible and flammable liquids; allocating functions of the Department of Labor and Industry and the Pennsylvania State Police; imposing penalties; and making repeals.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Combustible and Flammable Liquids Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Board." The Industrial Board of the Commonwealth.

"Combustible liquid." A liquid having a closed cup flash point at or above 100 degrees F (37.8 degrees C).

"Department." The Department of Labor and Industry of the Commonwealth.

"Flammable liquid." A liquid having a closed cup flash point below 100 degrees F (37.8 degrees C) and having a vapor pressure not exceeding 40 pounds per square inch, absolute (2068 millimeters hg) at 100 degrees F (37.8 degrees C).

"Person." Any individual, corporation or partnership.

"Retail service station." A place of business engaging in the sale at retail in this Commonwealth of gasoline, diesel fuel or kerosene.

"Storage tank." A vessel which:

(1) has a liquid capacity in excess of 30 gallons (113.5 liters);

(2) is intended for fixed installation; and

(3) is not used for processing which shall be deemed to include, but not be limited to, use of tanks to separate

crude oil and water prior to and at the point of crude oil custody transfer.

Section 3. Transfer of functions.

The powers and duties of the Pennsylvania State Police relating to combustible liquids or flammable liquids under the act of April 27, 1927 (P.L.450, No.291), referred to as the State Fire Marshal Law, are transferred to the department.

Section 3.1. Notification by manufacturers of gasoline additive information.

No person that distributes gasoline or that owns or operates a retail service station may make a representation respecting the antiknock characteristics of the gasoline unless the representation discloses the minimum Antiknock Index Requirements of the fuel as adopted by the National Conference of Weights and Measures and published in Handbook 130, and supplements thereto, or in any publication revising or superseding Handbook 130. The department shall have the authority to issue a stop-sale notice to a person that distributes gasoline or that owns or operates a retail service station if the person is in violation of this section.

(3.1 added October 18, 2000, P.L.574, No.74)

Section 4. Regulations.

(a) Authority.--

(1) The department may promulgate regulations governing the possession, use, storage and sale of combustible liquids or flammable liquids. Regulations under this paragraph must be based upon generally accepted national or international standards, except that regulations providing for emergency controls, including switches, shall be based upon subsection (c.1).

(2) To provide standards for the storage and dispensing of compressed natural gas as a vehicular fuel in fleet and public dispensing operations, the department shall promulgate regulations which adopt the National Fire Protection Association Standard for Compressed Natural Gas Vehicular Fuel systems (NFPA 52), excluding provisions on engine fuel systems.

(b) Existing regulations.--Until modified or deleted by the department, 37 Pa. Code Chs. 11 (relating to preliminary provisions) and 13 (relating to storage and use) shall be deemed regulations of the department under this section.

(c) Emergency controls.--((c) deleted by amendment)

(c.1) Emergency controls and electrical disconnects.--

(1) Fuel-dispensing systems shall be provided with one or more clearly identified emergency shut-off devices or electrical disconnects. Such devices or disconnects shall be installed in approved locations not less than 20 feet nor more than 100 feet from the fuel-dispensing devices that they serve. The farthest fuel-dispensing device shall be no more than 200 feet from the master control emergency shut-off device. Emergency shut-off devices or electrical disconnects shall disconnect power to:

(i) All dispensing devices.

(ii) All remote pumps serving the dispensing devices.

(iii) All associated power, control and signal circuits.

(iv) All other electrical equipment in hazardous or classified locations surrounding the fuel-dispensing devices.

(2) When more than one emergency shut-off device or electrical disconnect is provided, all devices shall be interconnected. Resetting from an emergency shut-off condition shall require manual intervention, and the manner of resetting shall be approved by the authority having jurisdiction.

(3) There shall be a master control emergency shut-off device, and such device shall be within 15 feet of the principal location of the attendant.

(4) At attended motor fuel-dispensing facilities, the devices or disconnects shall be readily accessible to the attendant.

(5) At unattended motor fuel-dispensing facilities, the devices or disconnects shall be readily accessible to patrons, and at least one additional device or disconnect shall be readily accessible to each group of dispensing devices on an individual island.

(6) Each fuel-dispensing device shall be in clear view of the attendant at all times. The dispensing of fuel at each fuel-dispensing device shall be in clear view of the attendant, and no obstacle shall be permitted between the dispensing operation and the attendant so as to obstruct the view of the attendant.

(d) Operating requirements for attended self-service motor fuel-dispensing facilities.--

(1) There shall be at least one attendant on duty while a self-service motor fuel-dispensing facility is open for business. The attendant's primary function shall be to supervise, observe and control the dispensing of Class I liquids while the Class I liquids are being dispensed.

(2) As used in this subsection, a "self-service motor fuel-dispensing facility" shall mean that portion of a property where liquids used as motor fuels are stored and dispensed from fixed, approved dispensing equipment into the fuel tanks of motor vehicles by persons other than the facility attendant and shall also include, where provided, facilities for the sale of other retail products.

(e) Attendant responsibilities.--It shall be the responsibility of an attendant to:

(1) Ensure the dispensing of Class I liquids into portable containers as provided for in section (7)(c).

(2) Ensure the use of hose nozzle valve latch-open devices as provided for in section (7)(b).

(3) Control sources of ignition.

(4) Immediately activate emergency controls and notify the fire department of any fire or other emergency.

(5) Handle accidental spills and fire extinguishers if needed.

(f) Capabilities.--The attendant or supervisor on duty shall be mentally and physically capable of performing the functions and assuming the responsibility prescribed in this act.

(g) Operating instructions.--Operating instructions shall be conspicuously posted in the dispensing area.

(h) Applicability.--Subsections (c.1), (d), (e), (f) and (g) shall apply to any new modification, construction or installation of fuel-dispensing systems and their components that dispense fuel. Existing attended motor fuel-dispensing facilities are not required to install additional emergency shut-off devices or electrical disconnects, provided that the primary emergency shut-off switch is not more than 15 feet from the principal control location of the attendant and not more than 125 feet from the farthest motor fuel-dispensing device. The provisions of this subsection shall apply to tank storage systems, piping systems and electrical installations. Subsections (d), (e), (f) and (g) shall apply to all existing attended motor fuel-dispensing facilities.

(4 amended Oct. 8, 2012, P.L.1188, No.144)

Section 5. Permits.

(a) Requirements.--

(1) A person may not install, replace or relocate a tank, pump or drawing-off device in connection with the possession, use, storage or sale of combustible liquids or flammable liquids in an aggregate capacity in excess of 30 gallons unless the person has a permit from the department.

(2) A person may not install, replace or relocate a container, pressure vessel or piece of compression equipment for the storage and dispensing of compressed natural gas as a vehicular fuel in fleet and public dispensing operations unless the person has a permit from the department.

(b) Procedure.--

(1) To receive or renew a permit under this section, an applicant must submit an application in a form prescribed by the department.

(2) The department shall make a decision on permit issuance based upon the applicant's ability to safely handle combustible liquids or flammable liquids in accordance with regulations under section 4.

(3) An applicant may appeal a denial of permit issuance under paragraph (2) to the board. The board's affirmance of a denial constitutes a final order. This paragraph is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

Section 6. Fees.

The department shall collect a fee of \$75 for a permit issued under section 5.

Section 7. Retail service stations.

(a) Kerosene.--At a retail service station, the intake or receiving pipe opening for a kerosene storage tank shall be smaller than the nozzle on the hose used to deliver gasoline or diesel fuel into the storage tank.

(b) Self-service.--An attended self-service gasoline station may use a hold-open gasoline-dispensing or hold-open diesel fuel-dispensing nozzle if all of the following are met:

(1) The nozzle meets safety standards adopted by regulation of the department.

(2) A sign is posted indicating that Pennsylvania law requires that any person, other than the attendant, who uses a hold-open gasoline-dispensing or hold-open diesel

fuel-dispensing nozzle shall remain within ten feet and within plain sight of the refueling point during the refueling operation.

(c) Portable container specifications.--In addition to established container construction requirements under 37 Pa. Code § 11.7 (relating to container construction), portable containers used for the storage and handling of flammable and combustible liquids shall be color-coded to properly identify the contents of the container as follows:

- (1) Blue shall represent kerosene.
- (2) Red shall represent gasoline.
- (3) Yellow shall represent diesel.

No other color may be used for portable containers as provided for in this section which are used for the storage and handling of flammable and combustible liquids. At least 75% of the surface area of the container shall be of the required color.

(d) Attended self-service station operator facilities.--It is the responsibility of the operator of the attended self-service station to familiarize attendant employees with the location and operation of the station's emergency fuel shut-off switch.

(e) Signage.--The department shall, by regulation, implement standards for signage to be placed in the area of a retail service station where gasoline, diesel fuel or kerosene is dispensed. The department shall require that the signs shall be conspicuously posted and include warnings or notices related to:

- (1) smoking prohibitions;
- (2) requirements for the use of hold-open gasoline-dispensing or hold-open diesel fuel-dispensing nozzles;
- (3) portable container use and specifications;
- (4) static electricity hazards; and
- (5) other safety hazards as determined by the department through regulation.

((e) added Oct. 8, 2012, P.L.1188, No.144)

(7 amended Nov. 23, 2004, P.L.937, No.134)

Section 8. Investigation.

(a) Regulated persons.--An agent or employee of the department may enter, during normal business hours, the premises of any applicant or permittee to do any of the following:

- (1) Make determinations under section 5(b)(2).
- (2) Ascertain violations of this act and regulations promulgated under this act.
- (3) Inspect tanks, pumps, drawing-off devices, containers, pressure vessels or compression equipment to assure compliance with this act and regulations promulgated under this act.

(b) General.--The department is authorized to investigate violations of this act and regulations under this act. This includes seeking search warrants.

Section 9. Orders.

(a) Authority.--An agent or employee of the department may, upon discovering a violation of this act or a regulation under this act, issue an order to place a tank, pump or drawing-off

device out of service. An order under this section must comply with all of the following:

- (1) Be in writing.
- (2) State the corrective action necessary.

(b) Appeal.--

(1) A person may appeal to the board the issuance of an order under subsection (a). The appeal shall not operate as a supersedeas.

(2) This subsection is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

Section 10. Prohibitions.

A person may not do any of the following:

(1) Hinder, delay or interfere with the department's enforcement of this act or regulations promulgated under this act.

(2) Fail to place out of service, in accordance with an order of the department, a tank, pump or drawing-off device for the possession, use, storage or sale of combustible liquids or flammable liquids.

(3) Cause or permit a delivery or acceptance of fuel into a kerosene storage tank in violation of section 7(a). Each delivery or acceptance constitutes a separate offense.

(4) Fail to remain at a location no more than ten feet from the nozzle being utilized and within plain sight of the nozzle during the use of hold-open gasoline-dispensing or hold-open diesel fuel-dispensing nozzles if the sign required under section 7(b)(2) is posted. Responsibility for compliance with this paragraph shall reside exclusively with the person utilizing a hold-open device.

(5) Use or operate any of the emergency controls or electrical disconnects to control the dispensing devices other than for an emergency. An attendant may use or operate any of the emergency devices or electrical disconnects for security or antitheft purposes. ((5) added Oct. 8, 2012, P.L.1188, No.144)

(10 amended Nov. 23, 2004, P.L.937, No.134)

Section 11. Penalties and remedies.

(a) Initial offense.--Except as provided for in subsection (c), a person that violates this act or a regulation under this act commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$500.

(b) Subsequent offenses.--A person that, after being sentenced under subsection (a), violates this act or a regulation under this act commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$1,000.

(c) Improper container.--A person who violates section 7(c) relating to portable container specifications commits a summary offense and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$100. The responsibility for compliance with section 7(c) shall reside exclusively with persons who use portable containers to store or handle flammable combustible liquids. The filling of such containers in connection with the sale or distribution of gasoline or kerosene shall not constitute an act of storage or handling for purposes of this section, and no seller shall

incur any civil liability for failure to properly identify the contents of such containers.

(d) Restitution.--If the sign required under section 7(b)(2) is posted, a person that violates section 10(4) shall be liable for payment of all environmental cleanup costs associated with a fuel spill resulting from the person's violation of section 10(4).

(11 amended Nov. 23, 2004, P.L.937, No.134)

Section 12. Applicability.

This act shall not apply to the possession, use or storage by a farm of any motor fuel for noncommercial purposes or any substance to facilitate the production of crops, livestock and livestock products. This act shall not apply to any tank in which such motor fuel or substance is stored by a farm.

Section 13. Repeals.

Sections 1(b) and (c) and 4.1 of the act of April 27, 1927 (P.L.450, No.291), referred to as the State Fire Marshal Law, are repealed.

Section 14. Effective date.

This act shall take effect in 60 days.