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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/8/17  
 LAST UPDATED 3/17/17      HB 322/aHBIC/aSCONC

SPONSOR Crowder

SHORT TITLE Liquefied Natural Gas Definitions      SB \_\_\_\_\_

ANALYST Armstrong/Daly

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						Administrative Office of the Courts, District Attorneys, Public Defender Department
		See narrative				

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates SB336

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of SCONC Amendment

The Senate Conservation Committee amendment strikes the House Business and Industry Committee amendments and clarified the definitions of “qualified instructor” and “inspector”.

#### Synopsis of HBIC Amendments

The House Business and Industry Committee amendments to House Bill 322 make two changes to clarify that both employees and owners may meet the requirements to be a qualified instructor and to clarify the definition of inspector.

#### Synopsis of Original Bill

House Bill 322 (HB322) creates “liquefied natural gases” and “LNG” as defined terms sharing the existing definition for “compressed natural gases” and “CNG” and clarifies that the definition of these terms includes liquids as well as vapors as currently defined. The bill also increases penalties for violation of the LPG and CNG Act (“the Act”), Chapter 70, Article 5, NMSA 1978, from a petty misdemeanor to a misdemeanor.

## FISCAL IMPLICATIONS

This bill increases the potential penalty for violating the Act to up to 364 days imprisonment, a fine up to \$1,000, or both. Currently, such violations are punishable by no more than six months imprisonment, a fine up to \$500, or both. Under the state and federal constitutions, a criminal defendant is automatically eligible for a jury trial if facing a possibility of more than six months in jail. Increasing penalties will raise the number of offenders entitled to a jury trial. According to AOC, the incentives for taking the case to trial increase with increased penalties, and courts may require more resources to handle additional jury trials. The average cost of a jury trial in the Second Judicial District Court is \$4.7 thousand. District attorneys' offices and the Public Defender Department could experience similar increased costs.

## SIGNIFICANT ISSUES

Current law allows the Regulation and Licensing Department's (RLD) Construction Industries Division (CID) to regulate CNG containers and equipment used when attached to motor vehicles or for the storing, transporting, or dispensing liquefied petroleum gases or CNG. HB322 clarifies that the Act applies to containers and equipment related to LNG by adding to and expanding the definition of CNG to include liquids.

RLD analysis notes:

The current definition of compressed natural gases does not include that such gases include liquefied natural gases and does not reflect that such gases can be found in liquid form as well as gaseous and vapor. The proposed change makes these technical corrections to the definition to include liquefied natural gases and to include that compressed natural gases can be found in a gas or vapor or liquid form. The change in definition more accurately defines compressed natural gases than the current definition.

§70-5-21, as is currently reads, includes both a designation as a misdemeanor and a designation of a monetary fine of between \$50 and \$500, prison time of up to 90 days, or both. The problem with the current statute is that it conflicts with § 31-19-1 of the criminal code. § 31-19-1, titled "Sentencing authority; misdemeanors; imprisonment and fines; probation" defines both misdemeanors and petty misdemeanors as well as setting out the monetary fines and potential prison time connected to each. Subsection A states that if a defendant is convicted of a misdemeanor, the sentence shall be "imprisonment in the county jail for a definite term less than one year or to the payment of a fine of not more than one thousand dollars (\$1,000) or to both such imprisonment and fine in the discretion of the judge." Subsection B states that if a defendant is convicted of a petty misdemeanor, the sentence shall be "imprisonment in the county jail for a definite term not to exceed six months or to the payment of a fine of not more than five hundred dollars (\$500) or to both such imprisonment and fine in the discretion of the judge."

While the statute states that the conviction should be based on a misdemeanor, based on the monetary fine and the potential prison time as set out currently in §70-5-21, courts could interpret the crime as a petty misdemeanor rather than a full misdemeanor. The proposed change in HB 322 removes the monetary and penal designation and replaces it with clarifying language that the punishment is a misdemeanor pursuant to Subsection A of Section 31-19-1.

While CID regulates equipment related to LP or CNG, it appears the NM Department of Agriculture (NMDA) has authority over the quality and quantity of LNG. The Petroleum Products Standards Act, 57-19-25 to 57-19-37 NMSA 1978, defines “motor fuel” subject to NMDA regulation as “any liquid product used for the generation of power in an internal combustion engine, excluding liquefied petroleum gases and aviation fuels.”

### **TECHNICAL ISSUES**

The effect of new language on page 1, lines 24 and 25, is unclear. While the bill adds LNG as a defined term, it does not use it in other parts of the Act where CNG is used. However, this might be unnecessary if including liquids in the definition expands uses of CNG to also apply to LNG.

JA/al/jle/sb/jle