

Senate Bill 486

By: Senators Harper of the 7th, Walker III of the 20th, Anderson of the 24th, Sims of the 12th, Goodman of the 8th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 8 of Title 2 of the Official Code of Georgia Annotated,
2 relating to the Agricultural Commodity Commission for Propane, so as to provide for full or
3 partial remote communication with regard to public hearings; to provide for notice of
4 hearings; to revise referendum requirements and procedures for issuing, amending, and
5 renewing marketing orders; to provide for related matters; to repeal conflicting laws; and for
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 6 of Chapter 8 of Title 2 of the Official Code of Georgia Annotated, relating to the
10 Agricultural Commodity Commission for Propane, is amended by revising Code Section
11 2-8-209, relating to marketing orders and public hearings, as follows:

12 "2-8-209.

13 (a) The commission is authorized to issue, administer, and enforce marketing orders.

14 (b)(1) Whenever the commission has reason to believe that the issuance of a marketing
15 order will tend to effectuate the declared policy of this article with respect to propane, it
16 shall give due notice of and an opportunity for a public hearing either in person or wholly

17 or partially by means of remote communication as determined by the commission
18 thereon.

19 (2) Notice of any hearing called for such purpose shall be given by the commission by
20 publishing a notice of such hearing for a period of not less than five days ~~in a newspaper~~
21 ~~of general circulation published in the City of Atlanta and in such other newspapers as~~
22 ~~the commission may prescribe~~ on the commission's website and in the Farmers and
23 Consumers Market Bulletin or other similar publication that will effectively notify those
24 affected by such marketing order or amendment. ~~No such public hearing shall be held~~
25 ~~prior to five days after the last day of such period of publication.~~ The commission shall
26 also mail a copy or communicate electronically such notice of hearing and a copy of such
27 proposed marketing order or proposed amendments to all dealers and distributors of
28 propane whose names and addresses are on file with the commission. ~~Such notice of~~
29 ~~hearing shall in all respects comply with the requirements of Chapter 13 of Title 50, the~~
30 ~~'Georgia Administrative Procedure Act.'~~

31 (3) The hearing and all testimony shall be public, ~~and all testimony shall be received~~
32 ~~under oath.~~ A full and complete record of the proceedings at such hearing shall be made
33 and maintained on file in the office of the commission. The hearing shall, in all respects,
34 be conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
35 Procedure Act.' The hearing may be conducted by the commission or by a member of the
36 commission, as may be designated by the commission in each instance, but no decision
37 shall be made based on hearings conducted other than by the commission itself, at which
38 a majority of the members thereof are present, until the members of the commission have
39 been afforded an opportunity to review the hearing record. When the commission
40 conducts hearings, its recommendation shall be based on the findings reached after a
41 review of the record of such hearings."

SECTION 2.

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43 Said article is further amended by revising Code Section 2-8-211, relating to requirements
44 for referendum, as follows:

45 "2-8-211.

46 (a)(1) No marketing order issued pursuant to this article shall be made effective by the
47 commission until a referendum thereon is held.

48 (2) The commission shall determine:

49 (A) The amount of the proposed assessment established by the marketing order;

50 (B) The time and place of the referendum;

51 (C) Procedures for conducting the referendum and the counting of votes;

52 (D) The proposed effective date for the imposition of the assessment established by the
53 marketing order, which shall be no be less than 90 days from the date the referendum
54 ballot is required to be returned to the commission in order to be considered on the
55 question presented; and

56 (E) Any other matters pertaining to the referendum.

57 (b) The amount of the proposed assessment established by the marketing order shall be
58 stated on the referendum ballot. The amount may not exceed four-tenths of one cent for
59 each gallon of propane sold in this state by distributors to dealers.

60 (c) All dealers may vote in the referendum. Each dealer shall have one vote. Any dispute
61 over eligibility to vote or any other matter relating to the referendum shall be resolved by
62 the commission. The commission shall make reasonable efforts to provide all dealers with
63 notice of the referendum and an opportunity to vote.

64 (d) A proposed assessment shall become effective if more than ~~50~~ 25 percent of the
65 notified eligible dealers in the state who are engaged within the area specified in such
66 marketing order or amendment thereto vote and more than ~~50percent~~ two-thirds of the
67 eligible votes cast by the dealers are cast in favor of the assessment. If the assessment is
68 approved by the referendum, then the commission shall notify the department of the

69 amount and the effective date of the assessment. The department shall notify all dealers
70 of the assessment.

71 (e)(1) Each distributor, as the owner of propane at the time of odorization, or at the time
72 of import of odorized propane, shall make the assessment based on the volume of
73 odorized propane sold in this state and placed in commerce in this state.

74 (2) Each distributor shall collect the assessment from the dealer to whom the sale is made
75 and shall remit to the commission the sum of the amount of the assessment multiplied by
76 the number of gallons of propane sold to any dealer during the assessment period.

77 (f) A distributor shall keep records of the number of gallons of propane sold to dealers.
78 All documents or records regarding purchases and sales shall be made available to the
79 commission upon its written request for the purpose of determining the distributor's
80 compliance with the provisions of this article. The commission shall keep the records
81 confidential and shall not disclose the records except to its accountants, attorneys, or
82 financial advisors without a court order directing it to do so."

83

SECTION 3.

84 All laws and parts of laws in conflict with this Act are repealed.