

1999 ASSEMBLY BILL 703

February 1, 2000 – Introduced by Representatives OTT, FREESE, HASENOHRL, SPILLNER, KREIBICH, OLSEN and RHOADES, cosponsored by Senators CLAUSING, ERPENBACH and BURKE. Referred to Committee on Agriculture.

1 **AN ACT** *to create* 101.10 and 895.555 of the statutes; **relating to:** storage and
2 handling of anhydrous ammonia, creating an exemption from civil liability and
3 providing a penalty.

Analysis by the Legislative Reference Bureau

Anhydrous ammonia is a chemical compound that primarily is used for agricultural purposes but that may also be used in the production of the controlled substance methamphetamine. Currently, no statute specifically regulates the storage and handling of anhydrous ammonia. However, current rules promulgated by the department of commerce (department) do regulate the storage and handling of anhydrous ammonia. These rules are promulgated under the department's general authority to promote safe places of employment. Any person who violates these rules may be required to forfeit not less than \$10 nor more than \$100.

This bill creates a statute that specifically regulates the storage and handling of anhydrous ammonia. This bill requires the department to promulgate rules to establish reasonable standards relating to the safe storage and handling of anhydrous ammonia. This bill also increases the penalty that applies to certain violations of these rules and creates certain new penalties relating to anhydrous ammonia. Under this bill, any person who does any of the following may be fined not more than \$10,000 or imprisoned for not more than three years and six months or both:

(a) Stores, holds or transports anhydrous ammonia in a container that does not meet all applicable requirements prescribed by rule of the department.

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(b) Transfers or attempts to transfer anhydrous ammonia into a container that does not meet all applicable requirements prescribed by rule of the department.

(c) Transfers or attempts to transfer anhydrous ammonia without the consent of the owner of the anhydrous ammonia.

(d) Intentionally causes damage to anhydrous ammonia equipment without the consent of the owner of the equipment.

(e) Commits a theft of anhydrous ammonia or anhydrous ammonia equipment.

This bill also creates a civil liability exemption. Under this bill, any person who owns, maintains or installs anhydrous ammonia equipment is immune from civil liability for any act or omission that relates to the equipment and that causes damage to an individual, if that damage occurs during the individual's violation of items (c), (d) or (e), listed above. However, under this bill, a person is not immune from civil liability for certain reckless, wanton or intentional acts or omissions.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 101.10 of the statutes is created to read:

2 **101.10 Storage and handling of anhydrous ammonia. (1) DEFINITIONS.**

3 In this section:

4 (a) “Anhydrous ammonia equipment” means any equipment that is used in the
5 application of anhydrous ammonia for an agricultural purpose or that is used to
6 store, hold, transport or transfer anhydrous ammonia.

7 (b) “Transfer” means to remove from a container.

8 **(2) RULES.** The department shall promulgate rules that prescribe reasonable
9 standards relating to the safe storage and handling of anhydrous ammonia. The
10 rules shall prescribe standards for the design, construction, repair, alteration,
11 location, installation, inspection and operation of anhydrous ammonia equipment.
12 The rules promulgated under this subsection do not apply to ammonia
13 manufacturing plants, refrigeration plants where ammonia is used solely as a
14 refrigerant and ammonia transportation pipelines.

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1 **(3) PROHIBITIONS.** No person may do any of the following:

2 (a) Store, hold or transport anhydrous ammonia in a container that does not
3 meet all applicable requirements established by rule of the department promulgated
4 under sub. (2).

5 (b) Transfer or attempt to transfer anhydrous ammonia into a container that
6 does not meet all applicable requirements established by rule of the department
7 promulgated under sub. (2).

8 (c) Transfer or attempt to transfer anhydrous ammonia without the consent of
9 the owner of the anhydrous ammonia.

10 (d) Intentionally cause damage to anhydrous ammonia equipment without the
11 consent of the owner of the anhydrous ammonia equipment.

12 (e) Intentionally take, carry away, use, conceal or retain possession of
13 anhydrous ammonia belonging to another or anhydrous ammonia equipment
14 belonging to another, without the other's consent and with intent to deprive the
15 owner permanently of possession of the anhydrous ammonia or anhydrous ammonia
16 equipment.

17 **(4) PENALTIES.** (a) Any person who violates a rule of the department
18 promulgated under sub. (2) may be required to forfeit not less than \$10 nor more than
19 \$100 for each violation.

20 (b) Any person who violates sub. (3) may be fined not more than \$10,000 or
21 imprisoned for not more than 3 years and 6 months, or both, for each violation.
22 Notwithstanding s. 101.02 (12), each act in violation of sub. (3) constitutes a separate
23 offense.

24 **SECTION 2.** 895.555 of the statutes is created to read:

