

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3631/P2dn
RJM:cjs:jf

October 25, 1999

Senator Clausing:

1. The prohibitions in proposed s. 101.10 (3) (a) to (c), stats., provide for strict liability. In other words, these penalties criminalize unintentional and intentional acts. If you did not intend these provisions to establish strict liability, please let me know.

2. Under s. 101.02 (12), stats., every day that a person is in violation of subch. I of ch. 101 is a separate violation of the subchapter. This provision likely applies to violations of proposed s. 101.10, stats. and may produce unintended results. For example, due to s. 101.02 (12), stats., a person commits three felonies under the current draft if the person stores anhydrous ammonia in an improper container for three days. If you intend to provide an exception to avoid this result, please let me know.

3. The department of commerce (department) has already promulgated a chapter of rules dealing with anhydrous ammonia. See ch. COMM 43, Wis. Adm. Code. This draft specifically requires the department to promulgate these rules. Currently, these rules do not apply to ammonia manufacturing plants, refrigeration plants where ammonia is used solely as a refrigerant and ammonia transportation pipelines. See s. COMM 43.02 (2), Wis. Adm. Code. This draft preserves these exceptions by prohibiting the department from promulgating a rule that applies to ammonia manufacturing plants, refrigeration plants where ammonia is used solely as a refrigerant and ammonia transportation pipelines. If this treatment is not what you intend, please contact me.

4. This draft does not contain a definition of "anhydrous ammonia." However, the term is currently defined in s. COMM 43.04 (2), Wis. Adm. Code. Please review the definition in the administrative code and let me know if you intend to specify a different definition.

Please call if you have any questions or suggested changes. Once this draft meets with your approval, I will redraft it into introducible form.

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