

2001 Assembly Bill 7

Date of enactment: **April 3, 2001**
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2001 WISCONSIN ACT 3

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

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

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

101.10 Storage and handling of anhydrous ammonia. (1) DEFINITIONS. In this section:

(a) "Agricultural activity" means planting, cultivating, propagating, fertilizing, nurturing, producing, harvesting, or manufacturing agricultural, horticultural, viticultural, or dairy products; forest products; livestock; wildlife; poultry; bees; fish; shellfish; or any products of livestock, wildlife, poultry, bees, fish, or shellfish.

(b) "Anhydrous ammonia equipment" means any equipment that is used in the application of anhydrous ammonia for an agricultural purpose or that is used to store, hold, transport or transfer anhydrous ammonia.

(c) "Transfer" means to remove from a container.

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

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

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

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

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

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

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

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

(b) Except as provided in par. (c), any person who violates sub. (3) may be fined not more than \$10,000 or

* Section 991.11, WISCONSIN STATUTES 1999-00 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

imprisoned for not more than 3 years and 6 months, or both, for each violation. Notwithstanding s. 101.02 (12), each act in violation of sub. (3) constitutes a separate offense.

(c) Any person who violates sub. (3) (a) or (b) while performing an agricultural activity may be required to forfeit not less than \$10 nor more than \$100 for each violation.

SECTION 2. 895.555 of the statutes is created to read:
895.555 Liability exemption; anhydrous ammonia. (1) LIABILITY EXEMPTION. Except as provided under sub. (2), any person who owns, maintains, or installs anhydrous ammonia equipment, as defined in s. 101.10 (1) (b), or who uses anhydrous ammonia for any legal purpose is immune from any civil liability for acts or omissions relating to the anhydrous ammonia equipment or to anhydrous ammonia that cause damage or injury to

an individual, if that damage or injury occurs during the individual's violation of s. 101.10 (3) (c), (d), or (e).

(2) EXCEPTION. A person is not immune from civil liability under sub. (1) if the damage or injury is caused by the person's reckless or wanton acts or omissions or by acts or omissions intended by the person to cause damage or injury.

SECTION 3. Initial applicability.

(1) STORAGE AND HANDLING OF ANHYDROUS AMMONIA. The creation of section 101.10 (4) (b) and (c) of the statutes first applies to acts occurring on the effective date of this subsection.

(2) LIABILITY EXEMPTION; ANHYDROUS AMMONIA. The treatment of section 895.555 (1) of the statutes first applies to acts or omissions occurring on the effective date of this subsection.

