

2001 DRAFTING REQUEST

Bill

Received: **12/14/2000**

Received By: **rmarchan**

Wanted: **01/08/2000**

Identical to LRB:

For: **Alvin Ott (608) 266-5831**

By/Representing: **himself**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Alt. Drafters:

Subject: **Agriculture - miscellaneous
Buildings/Safety - misc.
Trade Regulation - other
Criminal Law - miscellaneous**

Extra Copies: **RCT
MGG
RNK
RR
MGD**

Pre Topic:

No specific pre topic given

Topic:

Anhydrous ammonia

Instructions:

See Attached. Redraft 1999 AB-703, as amended in Assembly.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 12/19/2000	csicilia 12/22/2000		_____			State
/1			pgreensl 12/22/2000	_____	lrb_docadmin 12/26/2000	lrb_docadmin 01/02/2001	
			haugeca 12/26/2000	_____			

FE Sent For:

<END>

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1?	rmarchan	1 jjs 12/21/00	12/22 PG.	12/22 PG/AS			

FE Sent For:

<END>

B I L L
REQUEST FORM

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

RJM

Use of this form is optional. It is often better to talk directly with the LRB attorney who will draft the bill.

Use this form only for **BILL** drafts. Attach more pages if necessary.

Legislator, agency or other body requesting this draft: Rep. Al Ott

Date: 12/14/00 Person submitting request (name, phone number): Beata Kalies
RA in Rep. Ott's office 266-5831

Persons to contact for questions about this draft (names, phone numbers): Beata Kalies
266-5831 or Rep. Al Ott 266-5831, or Mark Patronsky, Esq., C.
266-9280

Describe the problem, including any helpful examples.

How do you want to solve the problem?

We would like the ambiguous ammonia legislation redrafted from last session. We want the version that passed the State Assembly and with all the amendments that the Assembly adopted.

Thank you.

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up (not retyped) copy.

You may attach a marked-up (not retyped) copy of any LRB draft, or provide its number (e.g., 1999 LRB-2345/1 or 1997 AB-67): 1999 AB 703 LRB-4284/1

Requests are confidential unless stated otherwise.

- May we tell others that we are working on this for you? Yes No
- If yes: Anyone who asks? Yes No Any legislator? Yes No Only the following persons: _____

Do you consider this request urgent? Yes No If yes, please indicate why: Want the law in place

prior to planting season for the farming community... Speaker wants to take it up on the Assembly Floor in February or Hearing in January
Should we give this request priority over any other pending request of this legislator, agency or body? Yes No If yes, sign your name here:

Alvin R. Ott

AB-703 Anhydrous Ammonia

Redraft is passed by Assembly (as amended)

LRB-4284/1

Al Ott

ASSEMBLY BILL 703 (LRB-4284)

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.

2000

02-01. A. Introduced by Representatives Ott, Freese, Hasenohrl, Spillner, Kreibich, Olsen and Rhoades; cosponsored by Senators Clausing, Erpenbach and Burke.

02-01. A. Read first time and referred to committee on Agriculture

618

02-04. A. Fiscal estimate received .

02-04. A. Fiscal estimate received .

02-07. A. Public hearing held .

02-08. A. Fiscal estimate received .

02-08. A. Executive action taken .

02-08. A. Assembly amendment 1 offered by committee on Agriculture (LRB a1358)

665

02-09. A. Fiscal estimate received .

02-10. A. Fiscal estimate received .

02-17. A. Report Assembly amendment 1 adoption recommended by committee on Agriculture, Ayes 14, Noes 0

671

02-17. A. Report passage as amended recommended by committee on Agriculture, Ayes 14, Noes 0

671

02-17. A. Referred to committee on Criminal Justice

671

02-24. A. Fiscal estimate received .

02-24. A. Public hearing held .

02-29. A. Assembly substitute amendment 1 offered by Representatives Ott and Goetsch (LRB s0338)

682

03-01. A. Executive action taken .

03-01. A. Assembly amendment 1 to Assembly substitute amendment 1 offered by committee on Criminal Justice (LRB a1550)

696

03-07. A. Report Assembly amendment 1 to Assembly substitute amendment 1 adoption recommended by committee on Criminal Justice, Ayes 13, Noes 0

701

03-07. A. Report Assembly substitute amendment 1 adoption recommended by committee on Criminal Justice, Ayes 13, Noes 0

701

03-07. A. Report passage as amended recommended by committee on Criminal Justice, Ayes 13, Noes 0

701

03-07. A. Referred to committee on Rules
701

03-07. A. Placed on calendar 3-9-2000 by committee on Rules .
03-09. A. Read a second time
730

03-09. A. Assembly amendment 1 to Assembly substitute
amendment 1 adopted
730

03-09. A. Assembly amendment 2 to Assembly substitute
amendment 1 offered by Representatives Goetsch, Ott
and Freese (LRB a1692)
730

03-09. A. Assembly amendment 2 to Assembly substitute
amendment 1 adopted
730

03-09. A. Assembly substitute amendment 1 adopted
730

03-09. A. Ordered to a third reading
730

03-09. A. Rules suspended
730

03-09. A. Read a third time and passed, Ayes 97, Noes 1
730

03-09. A. Ordered immediately messaged
730

03-14. S. Received from Assembly
495

03-14. S. Read first time and referred to committee on
Agriculture, Environmental Resources and Campaign
Finance Reform
496

04-06. S. Failed to concur in pursuant to Senate Joint
Resolution 1
583

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 703**

March 1, 2000 – Offered by COMMITTEE ON CRIMINAL JUSTICE.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 3, line 14: after “cause damage” insert “or injury”.

3 **2.** Page 3, line 14: after “that damage” insert “or injury”.

4 **3.** Page 3, line 17: after “damage” insert “or injury”.

5 **4.** Page 3, line 18: after “damage” insert “or injury”.

6 (END)

BY 1-8-01

pmnr

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 703**

February 29, 2000 - Offered by Representatives OTT and GOETSCH.

INSERT
ANALYSIS

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.

★

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

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

5 **101.10 Storage and handling of anhydrous ammonia.** (1) DEFINITIONS.

6 In this section:

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

10 (b) "Transfer" means to remove from a container.

11 (2) RULES. The department shall promulgate rules that prescribe reasonable
12 standards relating to the safe storage and handling of anhydrous ammonia. The

ANALYSIS
1-9

1 rules shall prescribe standards for the design, construction, repair, alteration,
2 location, installation, inspection, and operation of anhydrous ammonia equipment.
3 The rules promulgated under this subsection do not apply to ammonia
4 manufacturing plants, refrigeration plants where ammonia is used solely as a
5 refrigerant, and ammonia transportation pipelines.

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

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

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

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

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

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

22 (4) PENALTIES. (a) Any person who violates a rule of the department
23 promulgated under sub. (2) may be required to forfeit not less than \$10 nor more than
24 \$100 for each violation.

1 (b) Except as provided in par. (c), any person who violates sub. (3) may be fined
2 not more than \$10,000 or imprisoned for not more than 3 years and 6 months, or both,
3 for each violation. Notwithstanding s. 101.02 (12), each act in violation of sub. (3)
4 constitutes a separate offense.

5 (c) Any person who violates sub. (3) (a) or (b) ^{while performing an} ~~in the performance of a bona fide~~
6 agricultural activity may be required to forfeit not less than \$10 nor more than \$100
7 for each violation.

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

9 **895.555 Liability exemption; anhydrous ammonia.** (1) LIABILITY
10 EXEMPTION. Except as provided under sub. (2), any person who owns, maintains, or
11 installs anhydrous ammonia equipment, as defined in s. 101.10 (1) (a), ^b or who uses
12 anhydrous ammonia for any legal purpose is immune from any civil liability for acts
13 or omissions relating to the anhydrous ammonia equipment or to anhydrous
14 ammonia that cause damage ^{or injury} to an individual, if that damage occurs during the
15 individual's violation of s. 101.10 (3) (c), (d) or (e).

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

19 SECTION 3. Initial applicability.

20 (1) STORAGE AND HANDLING OF ANHYDROUS AMMONIA. The ^{STET} ~~creation~~ of section
21 101.10 (4) (b) and (c) of the statutes first applies to acts occurring on the effective date
22 of this subsection.

23 (2) LIABILITY EXEMPTION; ANHYDROUS AMMONIA. The ^{STET} ~~creation~~ of section 895.555
24 (1) of the statutes first applies to acts or omissions occurring on the effective date of
25 this subsection.

1999 ASSEMBLY BILL 703

INVEST ANALYSIS

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.

→ [block indent]

Ident the text to the par. (a)

With certain exceptions

no 9 no indent

ASSEMBLY BILL 703

any person who commits a violation described in item (a) or (b), listed above, while performing an agricultural activity is subject to a reduced penalty of not less than \$10 nor more than \$100.

(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, installs, or lawfully uses 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.

indent the text to parts (b), (c), (d), & (e)

or injury

while the individual commits a violation described in item

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) "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.

(b) "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.

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**ASSEMBLY AMENDMENT 2,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 703**

~~March 9, 2000~~ - Offered by Representatives GOETSCH, OTT and FREESE.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1, line 6: after that line insert:

INSERT 1-4

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

Lead ins >

8 **2.** Page 1, line 7: delete "(a)" and substitute:

9 "(ar)".

10 **3.** Page 3, line 5: delete "in the performance of a bona fide" and substitute

11 "while performing an".

1

~~4. Page 8, line 11: delete "(a)," and substitute "(ar)."~~

2

(END)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

December 26, 2000

MEMORANDUM

To: Representative Ott

From: Robert J. Marchant, Legislative Attorney

Re: LRB-1522 Anhydrous ammonia

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 261-4454 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.