

Committee Meeting Attendance Sheet

Assembly Committee on Agriculture

Date: 10/3/01 Meeting Type: PUBLIC HEARING AB507

Location: 328 NW

Committee Member

Present

Absent

Excused

Rep. Alvin Ott, Chair

Rep. Eugene Hahn

Rep. John Ainsworth

Rep. Jerry Petrowski

Rep. Scott Suder

Rep. Steve Kestell

Rep. Gabe Loeffelholz

Rep. Garey Bies

Rep. Barbara Gronemus

Rep. Joe Plouff

Rep. Marty Reynolds

Rep. John Steinbrink

Rep. Julie Lassa

Rep. Marlin Schneider

Rep. Mary Hubler

Totals:

15

0

0



Beata Kalies, Committee Clerk

Committee Meeting Attendance Sheet

Assembly Committee on Agriculture

Date: 10/16/01 Meeting Type: EXEC. SESSION AB 507

Location: 225 NW

| <u>Committee Member</u> | <u>Present</u> | <u>Absent</u> | <u>Excused</u> |
|-------------------------|-------------------------------------|--------------------------|--------------------------|
| Rep. Alvin Ott, Chair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Eugene Hahn | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. John Ainsworth | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Jerry Petrowski | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Scott Suder | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Steve Kestell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Gabe Loeffelholz | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Garey Bies | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Barbara Gronemus | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Joe Plouff | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Marty Reynolds | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. John Steinbrink | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Julie Lassa | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Marlin Schneider | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Mary Hubler | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Totals: 15 0 0

Beata Kalies

Beata Kalies, Committee Clerk

Vote Record

Assembly - Committee on Agriculture

Date: 10/16/01

Bill Number: AR 507

Moved by: REP. OTT

Seconded by: REP HAHN

Motion: UNANIMOUS CONSENT TO INTRODUCE SUBSTITUTE AMENDMENT TO AR 507

| <u>Committee Member</u> | <u>Aye</u> | <u>No</u> | <u>Absent</u> | <u>Not Voting</u> |
|---------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Rep. Alvin Ott, Chair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Eugene Hahn | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. John Ainsworth | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Joan Wade | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Jerry Petrowski | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Scott Suder | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Steve Kestell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Gabe Loeffelholz | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Garey Bies | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Barbara Gronemus | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Joe Plouff | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
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| Rep. John Steinbrink | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Julie Lassa | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Marlin Schneider | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Mary Hubler | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Totals: 15 _____ _____ _____

Motion Carried

Motion Failed

Vote Record

Assembly - Committee on Agriculture

Date: 12/16/01

Bill Number: AB 507

Moved by: Bies

Seconded by: Hahn

Motion: ADOPT SUBSTITUTE AMENDMENT

| <u>Committee Member</u> | <u>Aye</u> | <u>No</u> | <u>Absent</u> | <u>Not Voting</u> |
|---------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Rep. Alvin Ott, Chair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Eugene Hahn | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. John Ainsworth | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Joan Wade | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Jerry Petrowski | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Scott Suder | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Steve Kestell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Gabe Loeffelholz | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Garey Bies | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Barbara Gronemus | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
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| Rep. Marlin Schneider | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Mary Hubler | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Totals: | <u>15</u> | <u>0</u> | <u>0</u> | <u>0</u> |

Motion Carried

Motion Failed

Vote Record

Assembly - Committee on Agriculture

Date: 10/16/01

Bill Number: AB 507

Moved by: Rep. Hubler

Seconded by: Rep. Suder

Motion: PASSAGE OF BILL AS AMENDED

| <u>Committee Member</u> | <u>Aye</u> | <u>No</u> | <u>Absent</u> | <u>Not Voting</u> |
|---------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Rep. Alvin Ott, Chair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Eugene Hahn | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. John Ainsworth | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Joan Wade | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
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| Rep. Marlin Schneider | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Mary Hubler | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Totals: 15 0 0 0

Motion Carried

Motion Failed



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2001 Assembly Bill 507

**Assembly Substitute
Amendment 1**

Memo published: October 23, 2001

Contact: Mark C. Patronskey, Senior Staff Attorney (266-9280)

Current Law

The current statute relating to storage and handling of anhydrous ammonia is intended to address concerns regarding the theft of anhydrous ammonia for use as an ingredient in the illicit manufacture of the drug methamphetamine. The current statute, s. 101.10, was created by 2001 Wisconsin Act 3. The effect of the statute is to impose more stringent penalties for these illegal activities, compared to the basic theft and property damage statutes.

The current statute has two basic provisions. First, the statute requires the Department of Commerce to promulgate rules that prescribe standards for the safe storage and handling of anhydrous ammonia. The statute describes in general terms the required contents of these rules and lists several exceptions to the rules. Second, the statute prohibits storing or transporting anhydrous ammonia in a container that does not meet the standards in Department of Commerce rules, and prohibits theft of anhydrous ammonia or the causing of damage to anhydrous ammonia equipment.

The Department of Commerce has promulgated rules related to the storage and handling of anhydrous ammonia in ch. Comm 43, Wis. Adm. Code. These rules were in place prior to the enactment of 2001 Wisconsin Act 3. The purpose of the new statutory mandate for rules in Act 3 is to provide a statutory cross-reference for the new prohibitions in Act 3.

Assembly Bill 507

Assembly Bill 507 is intended to address concerns regarding the scope of the statutory requirement for rules relating to anhydrous ammonia. The current statutory language may make these rules applicable to certain manufacturing or pollution control processes that were not intended to be subject to these rules. If the Commerce rules apply to such activities, violation of the rules as part of a manufacturing or pollution control process could result in a statutory violation for which the penalty is a felony.

Assembly Substitute Amendment 1

The substitute amendment takes a simpler approach to the rule-making mandate, by eliminating those parts of the current statute that describe the contents of and the exceptions from the rule. Thus, the scope of the anhydrous ammonia rules will be determined by the Department of Commerce.

The substitute amendment also adds an exemption to the imposition of a felony under current statute similar to the exemption for agricultural activities. Pursuant to this exemption, a person who stores or transports anhydrous ammonia in a container that does not meet the standards set by the Commerce rule, or transfers anhydrous ammonia into such a container, is subject to a civil forfeiture rather than a felony, if the person is working on anhydrous ammonia equipment with the consent of the owner of that equipment.

Assembly Substitute Amendment 1 was introduced by the Assembly Committee on Agriculture and recommended for passage by a vote of Ayes, 15, Noes, 0.

MCP:rv:jal;ksm

Assembly Republican Majority

Bill Summary

AB 507: Anhydrous Ammonia Revisited

Relating to: creating an exemption from regulation of anhydrous ammonia.

By Representatives Ott, Freese, Ainsworth, Duff, J. Fitzgerald, Hahn, Jeskewitz, Musser, Olsen, Meyerhofer, Ward, Starzyk, Vrakas, Gronemus and Lippert, cosponsored by Senators Hansen, Erpenbach, Harsdorf, Roessler and Cowles.

Date: October 25, 2001

BACKGROUND

Under current law, rules relating to safe storage and handling of anhydrous ammonia are promulgated by the Department of Commerce and specified in the statute. The rules generally do not apply to facilities where anhydrous ammonia is manufactured, refrigeration plants where ammonia is used solely as a refrigerant, electric generating or co-generating facilities where ammonia is used as a refrigerant, and ammonia transportation pipelines. The 2001 Wisconsin Act 3 prohibited theft, transportation in nonstandard container or causing damage to anhydrous ammonia equipment.

SUMMARY OF AB 507 (AS AMENDED BY COMMITTEE)

Assembly Bill 507, was drafted to address the unintended application of the rules and felony penalties in manufacturing of certain pollution control devices among others. This bill eliminates the description of rule contents and exceptions, allowing Department of Commerce to determine rules and code violations. Also adds an exemption from felony penalty for those who use anhydrous ammonia for legitimate purposes

AMENDMENTS

Assembly Substitute Amendment to Assembly Bill 507 eliminates the description of rule contents and exceptions, allowing Department of Commerce to determine rules and code violations. Also adds an exemption from felony penalty for those who use anhydrous ammonia for legitimate purposes [adopted 15-0].

FISCAL EFFECT

No fiscal effect expected.

PROS

1. Assembly Bill AB 507, as amended eliminates the unintended application of current statute and restores regulation.
2. This legislation allows utilization of anhydrous ammonia to reduce emissions in pollution control devices as well as adaptation of new technology while maintaining regulatory control.
3. Assembly Bill 507 adds an exemption similar to one for agricultural activity for storing or transporting anhydrous ammonia in a nonstandard container thus resulting in a civil penalty rather than a felony.

CONS

None apparent.

SUPPORTERS

Rep. Al Ott, author; Sen. Dave Hansen, lead co-author; Barry McNulty, Wisconsin Energy Corporation; Tom Liebe, Wisconsin Energy Corporation; Senator Jon Erpenbach.

OPPOSITION

Chief Paul Guilbert, Village of Pleasant Prairie (the bill addresses his concerns).

HISTORY

Assembly Bill 507 was introduced on September 24, 2001, and referred to the Assembly Committee on Agriculture. A public hearing was held on October 3, 2001. On October 16, 2001, the Committee voted 15-0 to recommend passage of AB 507 as amended.

CONTACT: Beata Kalies, Office of Rep. Al Ott

October 3, 2001
Assembly Committee on Agriculture

Department of Commerce Proposed Amendments

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) (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.

~~(c)~~ (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. Except as otherwise provided in this subsection, the rules promulgated under this subsection do not apply to ~~refrigeration plants where ammonia is used solely as a refrigerant, facilities where ammonia is manufactured, electric generating or cogenerating facilities where ammonia is used as a refrigerant,~~ and ammonia transportation pipelines. If ammonia is used on the premises of a facility or plant described under this subsection for a purpose or in a manner that is not related to the applicable exemption from the rules promulgated under this subsection, the exemption does not apply to that use.

(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 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.

10/3/01

Public Hearing on 13507-

(1) Rep. Alott author 13507 Speaker

explained the workings of the bill incl.

how we are attempting to work out the differences...

between Commerce & Energy Co.

Rep. Schweiker brought up a loophole that

pollution control devices are not defined in statute

(3) TOM LIOBE

(2) BARRY MC NULTY 2nd speaker, representing

- WISC. ENERGY CO.

holding Co for Wisconsin Electric & Wisconsin Gas

- NOx emissions from high sulfur coal can be minimized by using a method that utilizes Anhydrous Ammonia.

- least costly approach / low Rates while achieving the desired reduction

- we should not make it more difficult...

= Concerned about the "flex" label when employees are misbranding the stuff.

→ want flexibility to go forward with new technology & not have to wait years for rules to be approved.

- Congresses are trying to address new technologies
last thing they want is more difficulty in
doing so
especially when one department
tells them to do something + another directs how.

④ MIKE CONRY + ⑤ BERNIE WATSON, Dept of Commerce

Chem. Engineer, Program Manager
for codes in this area

F41: there are two codes that affect Anly. Am.

Refrigeration Com 43 where ammonia is
used as a refrigerant
+ Refrigeration Com 45 where it is refrigerated
to keep in liq. state

- Has ability to regulate when it's used for
refrigeration purposes removed.

- more recent + more specific law will
overrule more general or previous law.

- also have an issue with the penalties -
general code violation could get higher
penalty as a result of Act 3

⑥ chief ~~Guilbert~~ Guilbert - testified regarding local issue, don't want local
(Rep-Stein-paruki dist) paying for it...

Ag Committee
off

Good morning – afternoon:

I am Paul Guilbert, I am the Chief of Fire & Rescue for the Village of Pleasant Prairie. Pleasant Prairie has an estimated population of 16,000 people and is located in Kenosha County, we are southeast Wisconsin in that we located on Lake Michigan and the border of IL.

As the Fire Chief for the past 15 years, I have been directly involved with the public safety of our village residents during a time when we have experienced significant economic development and have realized a one billion dollar increase in tax base. This could only be accomplished through public and private partnerships due to the combined effort of local, County, State and federal government efforts.

efforts

I am here to speak against Assembly Bill 507. The passage of this bill will change rules previously set in place for the protection of the public good, let me be more specific. “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, inspection, and operation of anhydrous ammonia”.

There will be significant impact on a community, in particular if that community is an urban community, if pollution control devices are exempted from this regulation. Power Plants within Wisconsin can be found in extreme environments, from rural areas to downtown Milwaukee, Pollution Control devices require the use of large amounts of Anhydrous Ammonia. Currently the design, installation and use is regulated by the

Department of Commerce ~~or Agriculture~~. To remove that provision, you will have denied the State ~~and the respective communities~~ ^{its} their right to oversight and regulatory control.

Anhydrous Ammonia is the most commonly produced chemical in the United States. Some of the uses include agriculture, refrigeration and controlling air pollution, The difference between its use in refrigeration and air pollution control, refrigeration systems are closed systems, you fill them up and typically they remain full, Air pollution control devices are open ended, you bring in the Anhydrous Ammonia, use it and then bring in more, it never ends, truck after truck, rail car after rail car, the risk of an accident increases with each transfer from truck or rail car.

To make the statement that there is no fiscal impact by the passage of this bill is simply not true. It has no fiscal impact on the state budget, but does in fact impact, local municipal budgets. Local communities will receive no additional money to take care of existing problems, or other hazards that may be added, i.e. Air Pollution Control Devices. With the change in the Utility Tax, the village will see even less revenue. My village does not wish to get rich, but we do not want to subsidize the cost of reviewing projects that used to be reviewed by the State. Additionally, there will be no additional funding to those municipalities that can be exposed to a plume created by an accidental release.

Pleasant Prairie is the location of the largest coal burning power plant in the state and is a major supplier of the power used by Wisconsin residents. We recognize the important role this plant plays in the overall source of power, however, the amounts of anhydrous ammonia proposed for this facility could have a detrimental affect on our

community, using computer modeling a release of 30,000 gallons of anhydrous ammonia will create a plume covering up to 8 miles which can travel beyond our boundaries into the City of Kenosha, the Towns of Somers, Paris and Bristol or across the border into the State of IL.

We are aware of alternative methods to control air pollution. By removing the regulatory power of the state, you have removed the incentive to seek and evaluate alternatives. In addition, if the State of Wisconsin removes itself from the review process, the local community or communities will have to fund the cost of contracting experts to review such plans,

In that multiple communities, multiple fire departments, multiple police and sheriff departments can be affected by a single plume or release, it is important that the State remain ^{part of} ~~in~~ the evaluation process. The Village of Pleasant Prairie believes in being responsible and performing due diligence, other communities may not have the wherewithal to do the same, that is unfortunate, when the impact can affect other communities as well, more the reason for the rules not to change.

I ask that you allow the provisions of the current regulations to remain in place, Allow those regulations to protect the first responders, the fire fighters who will be called to handle an emergency, that emergency can expose the fire fighters to an incredible risk, leave the regulation in place rather than provide convenience for the Utility companies.