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BILL ANALYSIS



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House Bill 4108 (Substitute H-3 as passed by the House)  
Sponsor: Representative Jeff Mayes  
House Committee: Agriculture  
Senate Committee: Agriculture, Forestry and Tourism

Date Completed: 6-29-05

**CONTENT**

**The bill would create the "Anhydrous Ammonia Security Act" to do the following:**

- Require the Agriculture Commission to issue anhydrous ammonia safety and security practices (AASSPs) regarding the security of anhydrous ammonia in the possession of sellers and end users in this State.**
- Specify that storage in a locked tank and/or storage with a dye would constitute safe and secure storage practices.**
- Establish tort immunity for a seller or end user who stored, secured, used, transported, or protected anhydrous ammonia in compliance with AASSPs.**

AASSPs

The Agriculture Commission would have to issue AASSPs by June 1, 2006. In addition to any other practices included, the AASSPs would have to provide that both of the following, either separately or in combination as the Commission determined, would constitute safe and secure storage practices for anhydrous ammonia:

- Storage in a tank that was properly equipped with a functioning tank or valve lock that was used at all times except when the seller or end user was taking anhydrous ammonia from the tank or filling it.
- Storage with a substance added to the anhydrous ammonia that was or that contained a dye that would, on release from the container holding the anhydrous ammonia, stain objects that it came in contact with, including skin and clothing, in a highly visible manner.

In establishing AASSPs, the Commission would have to give due consideration to available Department of Agriculture information and written recommendations from the Michigan State University College of Agriculture and Natural Resources Extension, the Department of State Police, local law enforcement agencies, anhydrous ammonia manufacturers, retailers, and end users, and other professional and industry organizations.

"Seller" would mean a person selling anhydrous ammonia at wholesale or retail to an end user for a legal purpose. "End user" would mean the person actually using anhydrous ammonia for a legal purpose.

## Immunity

A seller or end user who stored, secured, used, transported, or protected anhydrous ammonia in compliance with AASSPs would be immune from tort liability for personal injury, property damage, or death that resulted from the larceny or attempted larceny of anhydrous ammonia, or from a person obtaining or using, or attempting to obtain or use, anhydrous ammonia illegally. This would include immunity from liability for an injury to, damage to the property of, or the death of a person who was not the person committing or attempting to commit a larceny of, or obtaining, using, or attempting to obtain or use, anhydrous ammonia illegally.

The failure of a seller or end user to store, secure, use, transport, or protect anhydrous ammonia in compliance with AASSPs would not, by itself, create tort liability for personal injury, property damage, or death caused by the storage, securing, use, transportation, or protection of anhydrous ammonia.

These provisions would apply to a cause of action that accrued after the bill's effective date and after AASSPs were established.

Legislative Analyst: Suzanne Lowe

## **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Craig Thiel

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.