

**SUBSTITUTE FOR
HOUSE BILL NO. 4108**

A bill to establish safety and security practices for certain persons involved in the retail or wholesale sale or use of certain fertilizers; to provide certain powers and duties for certain state agencies; and to provide for immunity from liability under certain circumstances.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "anhydrous ammonia security act".

3 Sec. 3. As used in this act:

4 (a) "AASSPs" means anhydrous ammonia safety and security
5 practices established by the commission under section 5.

6 (b) "Anhydrous ammonia" means an inorganic compound that does
7 not contain water and consists of 1 nitrogen atom and 3 hydrogen

1 atoms.

2 (c) "Commission" means the commission of agriculture.

3 (d) "End user" means the person actually using anhydrous
4 ammonia for a legal purpose.

5 (e) "Seller" means a person selling anhydrous ammonia at
6 wholesale or retail to an end user for a legal purpose.

7 Sec. 5. (1) By June 1, 2006, the commission shall issue AASSPs
8 regarding the security of anhydrous ammonia in the possession of
9 sellers and end users in this state. In addition to any other
10 practices included, the AASSPs shall provide that both of the
11 following, either separately or in combination as the commission
12 determines advisable, constitute safe and secure storage practices
13 for anhydrous ammonia:

14 (a) Storage in a tank that is properly equipped with a
15 functioning tank or valve lock that is used at all times except
16 when the seller or end user is taking anhydrous ammonia from the
17 tank or filling the tank.

18 (b) Storage with a substance added to the anhydrous ammonia
19 that is or that contains a dye that will, on release from the
20 container that holds the anhydrous ammonia, stain objects that it
21 comes in contact with, including skin and clothing, in a highly
22 visible manner.

23 (2) In establishing AASSPs, the commission shall give due
24 consideration to available department of agriculture information
25 and written recommendations from the Michigan state university
26 college of agriculture and natural resources extension, the
27 department of state police, local law enforcement agencies,

1 anhydrous ammonia manufacturers, retailers, and end users, and
2 other professional and industry organizations.

3 Sec. 7. (1) A seller or end user who stores, secures, uses,
4 transports, or protects anhydrous ammonia in compliance with AASSPs
5 is immune from tort liability for injury to person, damage to
6 property, or death that results from the larceny or attempted
7 larceny of anhydrous ammonia, or from a person obtaining or using,
8 or attempting to obtain or use, anhydrous ammonia in a manner
9 contrary to law. The immunity from tort liability under this
10 subsection includes immunity from liability for an injury to,
11 damage to the property of, or the death of a person who is not the
12 person committing or attempting to commit a larceny of, or
13 obtaining, using, or attempting to obtain or use, anhydrous ammonia
14 in a manner contrary to law.

15 (2) Failure of a seller or end user to store, secure, use,
16 transport, or protect anhydrous ammonia in compliance with AASSPs
17 does not, by itself, create tort liability for injury to person,
18 damage to property, or death caused by the storing, securing,
19 using, transporting, or protecting of anhydrous ammonia.

20 (3) This section applies to a cause of action that accrues
21 after the effective date of this act and after AASSPs are
22 established under section 5.