

**SUBSTITUTE FOR  
SENATE BILL NO. 877**

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  
7 consists of 1 nitrogen atom and 3 hydrogen atoms and has a chemical

1 formula of  $\text{NH}_3$ . Anhydrous ammonia is ammonia gas in a compressed or  
2 liquefied form but is not aqueous ammonia, which is a solution of  
3 ammonia gas in water.

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

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

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

9 Sec. 5. (1) Within 6 months after the effective date of this  
10 act, the commission shall issue proposed AASSPs regarding the  
11 security of anhydrous ammonia in the possession of sellers and end  
12 users in this state. In addition to any other practices included,  
13 the AASSPs shall provide that both of the following, either  
14 separately or in combination as the commission determines  
15 advisable, constitute safe and secure storage practices for  
16 anhydrous ammonia:

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

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

26 (2) In establishing the AASSPs, the commission shall give due  
27 consideration to available department of agriculture information

1 and written recommendations from the Michigan state university  
2 college of agriculture and natural resources extension, the  
3 department of state police, local law enforcement agencies,  
4 anhydrous ammonia manufacturers, retailers, and end users, and  
5 other professional and industry organizations.

6       Sec. 7. The commission shall work with the department of  
7 treasury to facilitate the filing for the income tax credit for  
8 expenditures and expenses made by sellers and end users relating to  
9 implementing the security measures contained in the AASSPs.

10       Sec. 9. (1) A seller or end user storing, securing, using,  
11 transporting, or protecting anhydrous ammonia in compliance with  
12 the AASSPs is immune from tort liability for an injury to a person,  
13 damage to property, or death that results from the larceny or  
14 attempted larceny of anhydrous ammonia, or from a person obtaining  
15 or using, or attempting to obtain or use, anhydrous ammonia in a  
16 manner contrary to law. The immunity from tort liability under this  
17 subsection includes immunity from liability for an injury to any  
18 other person, damage to property of any other person, or death to  
19 any other person who is not the person committing a larceny,  
20 attempting to commit a larceny, or obtaining, using, or attempting  
21 to obtain or use anhydrous ammonia in a manner contrary to law.

22       (2) Failure of a seller or end user to store, secure, use,  
23 transport, or protect anhydrous ammonia in compliance with the  
24 AASSPs does not, by itself, create tort liability for an injury to  
25 any person, damage to any property, or death to any person caused  
26 by the storing, securing, using, transporting, or protecting of  
27 anhydrous ammonia.

Senate Bill No. 877 as amended December 13, 2005

1 (3) This section applies to any cause of action that accrues

2 after the AASSPs are issued under section 5.

<<Enacting section 1. This act does not take effect unless House  
Bill No. 4108 of the 93rd Legislature is enacted into law.>>