

# SENATE BILL No. 877

November 9, 2005, Introduced by Senators GARCIA, GEORGE, GOSCHKA, CROPSEY, VAN  
WOERKOM and BROWN and referred to the Committee on Agriculture, Forestry and Tourism.

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  
8 proposed AASSPS regarding the security of anhydrous ammonia in the  
9 possession of sellers and end users in this state.

10 (2) In establishing the AASSPS, the commission shall give due  
11 consideration to available department of agriculture information  
12 and written recommendations from the Michigan state university  
13 college of agriculture and natural resources extension, the  
14 department of state police, local law enforcement agencies,  
15 anhydrous ammonia manufacturers, retailers, and end users, and  
16 other professional and industry organizations.

17 Sec. 7. The commission shall work with the department of  
18 treasury to facilitate the filing for the income tax credit for  
19 expenditures and expenses made by sellers and end users relating to  
20 implementing the security measures contained in the AASSPS.

21 Sec. 9. (1) A seller or end user storing, securing, using,  
22 transporting, or protecting anhydrous ammonia in compliance with  
23 the AASSPS is immune from tort liability for an injury to a person,  
24 damage to property, or death that results from the larceny or  
25 attempted larceny of anhydrous ammonia, or from a person obtaining  
26 or using, or attempting to obtain or use, anhydrous ammonia in a  
27 manner contrary to law. The immunity from tort liability under this

1 subsection includes immunity from liability for an injury to any  
2 other person, damage to property of any other person, or death to  
3 any other person who is not the person committing a larceny,  
4 attempting to commit a larceny, or obtaining, using, or attempting  
5 to obtain or use anhydrous ammonia in a manner contrary to law.

6 (2) Failure of a seller or end user to store, secure, use,  
7 transport, or protect anhydrous ammonia in compliance with the  
8 AASSPS does not, by itself, create tort liability for an injury to  
9 any person, damage to any property, or death to any person caused  
10 by the storing, securing, using, transporting, or protecting of  
11 anhydrous ammonia.

12 (3) This section applies to any cause of action that accrues  
13 after the effective date of this act.