

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

635E0207

## HOUSE BILL NO. 1170

Introduced by: Representatives Jaspers, Abdallah, Duenwald, Hanson (Gary), Hennies (Thomas), Jensen, Juhnke, McCaulley, and Pederson (Gordon) and Senators Diedrich (Larry), Dennert, Drake, Duxbury, Greenfield, Hainje, and Symens

1 FOR AN ACT ENTITLED, An Act to prohibit the tampering with anhydrous ammonia and to  
2 provide a penalty for a violation thereof.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. For the purposes of this Act, the term, anhydrous ammonia, means a compound  
5 formed by the chemical combination of the elements nitrogen and hydrogen in the molar  
6 proportion of one part nitrogen to three parts hydrogen as shown by the chemical formula NH<sub>3</sub>.  
7 On a weight basis, the ratio is fourteen parts nitrogen to three parts hydrogen or approximately  
8 eighty-two percent nitrogen to eighteen percent hydrogen. Anhydrous ammonia may exist in  
9 either a gaseous or a liquid state.

10 Section 2. No person may:

- 11 (1) Place, have placed, or possess anhydrous ammonia in a container that is not designed,  
12 constructed, maintained, and authorized to contain or transport anhydrous ammonia;
- 13 (2) Transport anhydrous ammonia in a container that is not designed, constructed,  
14 maintained, and authorized to transport anhydrous ammonia;

1       (3) Use, deliver, receive, sell, or transport a container designed and constructed to  
2           contain anhydrous ammonia without the express consent of the owner or authorized  
3           custodian of the container; or

4       (4) Tamper with any equipment or facility used to contain, store, or transport anhydrous  
5           ammonia.

6       For the purposes of this section, containers designed and constructed for the storage and  
7       transport of anhydrous ammonia are described in the Code of Federal Regulations, title 49 as of  
8       January 1, 2001. Any person who violates the provisions of this section is guilty of a Class 5  
9       felony or is subject to a civil penalty not to exceed fifty thousand dollars or both.

10      Section 3. Except as provided in section 4 of this Act, a person tampering with anhydrous  
11      ammonia containers or equipment under section 2 of this Act has no cause of action for damages  
12      arising out of the tampering against:

13      (1) The owner or lawful custodian of the container or equipment;

14      (2) A person responsible for the installation or maintenance of the container or  
15           equipment; or

16      (3) A person lawfully selling or offering for sale the anhydrous ammonia.

17      Section 4. The provisions of section 3 of this Act do not apply to a cause of action against  
18      a person who unlawfully obtained the anhydrous ammonia or anhydrous ammonia container or  
19      who possesses the anhydrous ammonia or anhydrous ammonia container for any unlawful  
20      purpose.