

AN ACT

ENTITLED, An Act to prohibit the tampering with anhydrous ammonia and to provide a penalty for a violation thereof.

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

Section 1. For the purposes of this Act, the term, anhydrous ammonia, means a compound formed by the chemical combination of the elements nitrogen and hydrogen in the molar proportion of one part nitrogen to three parts hydrogen as shown by the chemical formula NH_3 . On a weight basis, the ratio is fourteen parts nitrogen to three parts hydrogen or approximately eighty-two percent nitrogen to eighteen percent hydrogen. Anhydrous ammonia may exist in either a gaseous or a liquid state.

Section 2. No person may:

- (1) Place, have placed, or possess anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to contain or transport anhydrous ammonia;
- (2) Transport anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to transport anhydrous ammonia;
- (3) Use, deliver, receive, sell, or transport a container designed and constructed to contain anhydrous ammonia without the express consent of the owner or authorized custodian of the container; or
- (4) Tamper with any equipment or facility used to contain, store, or transport anhydrous ammonia.

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

Section 3. Except as provided in section 4 of this Act, a person tampering with anhydrous

ammonia containers or equipment under section 2 of this Act has no cause of action for damages arising out of the tampering against:

- (1) The owner or lawful custodian of the container or equipment;
- (2) A person responsible for the installation or maintenance of the container or equipment; or
- (3) A person lawfully selling or offering for sale the anhydrous ammonia.

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

An Act to prohibit the tampering with anhydrous ammonia and to provide a penalty for a violation thereof.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1170

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1170
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State