

# Legislative Analysis

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## ANHYDROUS AMMONIA SECURITY ACT

Mitchell Bean, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

### Senate Bill 877

**Sponsor: Sen. Valde Garcia**

**House Committee: Agriculture**

**Senate Committee: Agriculture, Forestry, and Tourism**

**Complete to 6-5-06**

## A SUMMARY OF SENATE BILL 877 AS PASSED BY THE SENATE 12-13-05

Senate Bill 877 would create a new act entitled the Anhydrous Ammonia Security Act. Generally, the bill would require the Agriculture Commission to develop safety and security practices concerning the storage and handling of anhydrous ammonia and to exempt sellers and legal consumers of anhydrous ammonia following those practices from tort liability stemming from the attempted theft or unlawful use of anhydrous ammonia. Anhydrous ammonia is a common agricultural fertilizer and industrial refrigerant that is also a common ingredient used in the manufacture of methamphetamine.

### **Safety and Security Practices**

The bill would require the Agriculture Commission to establish safety and security practices regarding the handling of anhydrous ammonia by sellers and legal consumers within six months after the bill's effective date. In establishing the practices, the commission would have to give due consideration to available Department of Agriculture information and written recommendations from the Michigan State University College of Agriculture and Natural Resources Extension; the Department of State Police; local law enforcement agencies; anhydrous ammonia manufacturers, retailers, and end users; and other professional and industry organizations.

These safety and security practices would include storing anhydrous ammonia in a tank that is properly equipped with a tank or valve lock that is used at all times, except when the seller or legal consumer withdraws the anhydrous ammonia from the tank; and storing anhydrous ammonia with a substance that contains a dye that will, upon release from the container, stain objects in a highly visible manner.

### **Immunity**

In addition, the bill would exempt a seller or legal consumer who stores, uses, or transports anhydrous ammonia in compliance with the safety and security practices set by the commission from tort liability for personal injury (including death) or property damage resulting from the theft or attempted theft of the anhydrous ammonia. The seller or legal consumer would also be exempt from liability for personal injury caused by a person using or attempting to use anhydrous ammonia in an unlawful manner. The tort

immunity would include immunity from liability for the injury (or death) or property damage of a person who is not the person who stole or attempted to steal the anhydrous ammonia or attempted to use it in an unlawful manner. The liability provisions would apply to a cause of action taking place after the bill's effective date and after the Agriculture Commission establishes the safety and security practices.

### **Income Tax Credit**

The bill would also require the Agriculture Commission to work with the Department of Treasury to facilitate the filing for an income tax credit for expenditures made by sellers and end users in implementing the safety and security measures.

[Note: There currently is no such credit in the Income Tax Act. Senate Bill 492 and House Bill 5037 would provide a refundable credit against the income tax equal to the cost paid for the purchase of a substance that contains a dye or the cost paid for a functioning tank or valve lock for an anhydrous ammonia tank.]

### **FISCAL IMPACT:**

The bill would have no apparent fiscal impact on the state or local units of government.

### **BACKGROUND INFORMATION:**

The bill is tie-barred to House Bill 4108, introduced by Representative Jeff Mayes. In June 2005, the House passed the bill in a version that is nearly identical to Senate Bill 877. The Senate passed a substitute for the bill in May 2006 that would amend the Revised Judicature Act to exempt sellers and legal consumers of anhydrous ammonia who comply with the safety and security practices developed by the Agriculture Commission from tort liability in the same manner as provided above in Senate Bill 877.

Legislative Analyst: Mark Wolf  
Fiscal Analyst: William E. Hamilton

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