

SENATE BILL REPORT

2SSB 6255

As Passed Senate, February 15, 2000

Title: An act relating to anhydrous ammonia.

Brief Description: Prescribing penalties for unlawful possession and storage of anhydrous ammonia.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Rasmussen, Prentice, Morton, Franklin, Heavey, Brown and Goings).

Brief History:

Committee Activity: Agriculture & Rural Economic Development: 1/17/2000, 1/19/2000 [DPS-JUD].

Judiciary: 1/31/2000, 2/4/2000 [DP2S].

Passed Senate, 2/15/2000, 48-0.

SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 6255 be substituted therefor, and the substitute bill do pass and be referred to Committee on Judiciary.

Signed by Senators Rasmussen, Chair; T. Sheldon, Vice Chair; Gardner, Honeyford, Morton, Prentice, Snyder, Stevens and Swecker.

Staff: David Johnson (786-7754)

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Second Substitute Senate Bill No. 6255 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Goings, Hargrove, Haugen and Long.

Staff: Karen Lundahl (786-7421)

Background: Anhydrous ammonia (NH₃) is a widely used nitrogen fertilizer and refrigerant. It is stored under high pressure and can cause burns and other injuries if mishandled. The United States Department of Transportation certifies containers as safe to hold anhydrous ammonia and several other state and federal agencies have regulations governing storage and handling of anhydrous ammonia.

Anhydrous ammonia is increasingly being used as an ingredient in the illegal production of methamphetamine, a controlled substance. Often, illegal drug manufacturers will store anhydrous ammonia in containers not designed to hold this corrosive chemical.

Summary of Bill: It is a crime to possess anhydrous ammonia with the intent to manufacture a controlled substance. It is a crime to possess anhydrous ammonia in a container not approved for that use or to otherwise improperly store or transport anhydrous ammonia. Both crimes are unranked class C felonies.

Those who unlawfully possess, store, or tamper with anhydrous ammonia or equipment are solely responsible for damage they cause. Lawful anhydrous ammonia manufacturers, sellers, possessors, and users are liable for their negligent misconduct to abide by the laws regarding anhydrous ammonia possession or storage.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For (Agriculture & Rural Economic Development): Anhydrous ammonia is a valuable fertilizer but farmers face violence and theft because of its use in meth. Agriculture should not be liable for the acts of others who may try to steal anhydrous ammonia. Methamphetamine production with anhydrous ammonia is an epidemic and growing problem. Meth labs are dangerous for innocent neighbors and children of meth cooks. This is a proactive prevention approach focusing on the unlawful user. Storage of anhydrous ammonia in unapproved containers is dangerous. Current laws directly outlaw the drug. This bill is directed at outlawing a component of manufacture which is a new useful tool for law enforcement.

Testimony Against (Agriculture & Rural Economic Development): Government shouldn't keep adding new crimes to control people. People shouldn't be punished for their intent or for mere possession, just for actions that hurt others.

Testified (Agriculture & Rural Economic Development): PRO: Linda Johnson, Farm Bureau; Paul Perz, Governor's Council on Substance Abuse; Joe Stohr, Washington Department of Ecology; Dan Coyne, Far West Fertilizer; Ray Shindler, Washington Association of Wheat Growers; Charlie Brown, Washington State Potato Commission; Dick Ducharme, Yakima Valley Growers and Shippers. CON: Merton Cooper;

Testimony For (Judiciary): Anhydrous ammonia is highly dangerous, but also has legitimate uses as economical fertilizer and as refrigerant for apple storage. We need to ensure that use of anhydrous ammonia in production of methamphetamine is stopped.

Testimony Against (Judiciary): We have enough laws to deal with this already, and should not keep passing laws which criminalize intent.

Testified (Judiciary): PRO: Steve Hunter, Dept. of Ecology; Dan LaRoche, Douglas County Sheriff; Larry Ericksen, Governor's Council on Substance Abuse; Dan Coyne, Far West Fertilizer; Roger Wesselman, WA Assn. of Wheat Growers; CON: Merton Cooper.

House Amendment(s): The amendment struck the entire text of the bill passed by the Senate and replaced it with the text of HB 2451. Theft of anhydrous ammonia is made a level VIII class C felony (21-27 months with 0 offender score).

Storage of anhydrous ammonia in unapproved containers is made a class C level VI felony (12-14 months with 0 offender score). Standards for approved containers are set by federal Department of Transportation or other state or federal standards.

Possession of anhydrous ammonia with intent to manufacture methamphetamine is made a class B level VIII felony (21-27 months, with 0 offender score).

A null and void clause is added due to fiscal impact.

Additional House Amendment(s): An exemption from the possession prohibition for cleanup crews is added. Liability protection for lawful possessors is added. The approved container standard is revised to include all containers constructed to hold anhydrous ammonia.