

SENATE BILL NO. 2119

Introduced by

Judiciary Committee

(At the request of the Attorney General)

1 A BILL for an Act to create and enact two new sections to chapter 19-20.2 of the North Dakota
2 Century Code, relating to transportation and tampering with containers of anhydrous ammonia;
3 to amend and reenact section 19-20.2-10 of the North Dakota Century Code, relating to a
4 penalty for violation of the chapter; and to provide a penalty.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 19-20.2 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Anhydrous ammonia containers, tampering, and definition - Penalty.**

- 9 1. A person may not:
- 10 a. Place, or have placed, or possess anhydrous ammonia in a container that is
11 not designed, constructed, maintained, and authorized to contain or transport
12 anhydrous ammonia;
- 13 b. Transport anhydrous ammonia in a container that is not designed,
14 constructed, maintained, and authorized to transport anhydrous ammonia;
- 15 c. Use, deliver, receive, sell, or transport a container designed and constructed
16 to contain anhydrous ammonia without the express consent of the owner or
17 authorized custodian of the container; or
- 18 d. Tamper with any equipment or facility used to contain, store, or transport
19 anhydrous ammonia.
- 20 2. For the purposes of this section, containers designed and constructed for the
21 storage and transport of anhydrous ammonia are described in this chapter, rules
22 adopted pursuant to this chapter, or in Code of Federal Regulations, title 49.
- 23 3. "Anhydrous ammonia" means a compound formed by the chemical combination of
24 the elements nitrogen and hydrogen in the molar proportion of one part nitrogen to

three parts hydrogen. This relationship is shown by the chemical formula NH_3 . On a weight basis, the ratio is fourteen parts nitrogen and 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.

4. "Tamper" means action taken by a person not authorized to take that action by law or by the owner or authorized custodian of an anhydrous ammonia container or of equipment where anhydrous ammonia is used, stored, distributed, or transported.

5. A person who willfully violates this section is guilty of a class C felony.

SECTION 2. A new section to chapter 19-20.2 of the North Dakota Century Code is created and enacted as follows:

No cause of action for person tampering.

1. Except as provided in subsection 2, a person tampering with anhydrous ammonia containers or equipment under section 1 of this Act does not have a cause of action for damages arising out of the tampering against:

a. The owner or lawful custodian of the container or equipment;

b. A person responsible for the installation or maintenance of the container or equipment; or

c. A person lawfully selling or offering for sale the anhydrous ammonia.

2. Subsection 1 does 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.

SECTION 3. AMENDMENT. Section 19-20.2-10 of the North Dakota Century Code is amended and reenacted as follows:

19-20.2-10. Penalty.

1. ~~Any~~ Except as provided by section 1 of this Act, any person violating this chapter is guilty of a class A misdemeanor.

2. When construing and enforcing the civil provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person is deemed to be the act, omission, or failure of the person as well as that of the person employed.

- 1 3. In addition to the criminal sanctions that may be imposed, a person found guilty of
- 2 violating this chapter or the rules adopted under this chapter is subject to a civil
- 3 penalty not to exceed five thousand dollars for each violation. The civil penalty
- 4 may be imposed by a court in a civil proceeding or by the commissioner of
- 5 agriculture through an administrative hearing.