

Sixty-second  
Legislative Assembly  
of North Dakota

## REENGROSSED HOUSE BILL NO. 1321

Introduced by

Representatives Belter, D. Johnson

Senators Flakoll, Wanzek

1 A BILL for an Act to amend and reenact sections 19-20.1-06, 19-20.2-03, 19-20.2-07,  
2 19-20.2-07.1, 19-20.2-08.4, 19-20.2-09, and 19-20.2-11 of the North Dakota Century Code,  
3 relating to anhydrous ammonia facility inspections; and to repeal section 19-20.2-08.1 of the  
4 North Dakota Century Code, relating to the anhydrous ammonia storage facility inspection fund.

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

6 **SECTION 1. AMENDMENT.** Section 19-20.1-06 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **19-20.1-06. Inspection fees and tonnage reports.**

9 There must be paid to the commissioner for all fertilizers, soil amendments, or plant  
10 amendments distributed in this state an inspection fee at the rate of twenty cents per ton  
11 [907.18 kilograms]. The inspection fee may not be less than ten dollars. Sales to manufacturers  
12 or exchanges between them are exempt from the inspection fee. Fees collected under this  
13 section must be used for the payment of the costs of inspection, sampling, and analysis, and  
14 other expenses necessary for the administration of this chapter forwarded to the state treasurer  
15 for deposit in the environment and rangeland protection fund.

16 Individual packages of fertilizers, soil amendments, or plant amendments sold exclusively in  
17 packages of twenty-five pounds [11.34 kilograms] or less are exempt from the provisions of this  
18 section. If a person sells fertilizer, soil amendments, or plant amendments in packages of  
19 twenty-five pounds [11.34 kilograms] or less and in packages over twenty-five pounds [11.34  
20 kilograms], that portion sold in packages over twenty-five pounds [11.34 kilograms] is subject to  
21 the same inspection fee of twenty cents per ton [907.18 kilograms], including the minimum ten  
22 dollar fee, as provided in this chapter.

23 Every licensed person who distributes a fertilizer, soil amendment, or plant amendment to a  
24 nonlicensed person in this state shall file with the commissioner, on forms furnished by the

1 commissioner, an annual statement for the calendar year, setting forth the number of net tons  
2 [kilograms] of each fertilizer, soil amendment, or plant amendment so distributed in this state  
3 during the period. A licensed end user shall report all sales and purchases and pay the  
4 appropriate tonnage tax. The statement is due on or before January thirty-first of the following  
5 year. The person filing the statement shall pay the inspection fee at the rate stated in this  
6 section. If the tonnage statement is not filed and the payment of inspection fee is not made by  
7 January thirty-first, a collection fee amounting to ten percent, minimum ten dollars, of the  
8 amount must be assessed against the licensee, and the amount of fees due constitute a debt  
9 and become the basis of a judgment against the licensee.

10 **SECTION 2. AMENDMENT.** Section 19-20.2-03 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **19-20.2-03. License required - Anhydrous ammonia facilities constructed after**  
13 **June 30, 1985.**

14 No anhydrous ammonia storage facility may be operated without a license issued by the  
15 agriculture commissioner and the board of county commissioners of the county in which the  
16 facility is constructed. An application for a license to site and operate an anhydrous ammonia  
17 storage facility must be made to the agriculture commissioner and to the board of county  
18 commissioners. The commissioner or the board may deny a license for failure to remit the  
19 proper fee to the agriculture commissioner, for failure to comply with the siting requirements of  
20 this chapter and rules adopted pursuant to this chapter if constructed after June 30, 1985, or for  
21 failure to comply with local siting requirements. The agriculture commissioner also may deny a  
22 license if the ~~chief boiler inspector does not certify that the facility meets~~does not meet the initial  
23 inspection standards required by this chapter and by any rules adopted pursuant to this chapter.  
24 In order to obtain a license, an individual shall submit two sets of drawings or photographs and  
25 signed affidavits stating and showing the facility has been measured and meets the siting  
26 requirements along with the application for license. The drawings or photographs must show the  
27 proposed location of the tank, the locations, and the surroundings in all directions. One set of  
28 drawings or photographs is for the agriculture commissioner and the other is for the board of  
29 county commissioners.

30 **SECTION 3. AMENDMENT.** Section 19-20.2-07 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1       **19-20.2-07. Inspection.**

- 2       1.    ~~The chief boiler inspector and the insurance commissioner shall cooperate with the~~  
3            agriculture commissioner ~~to~~shall develop and implement an initial and periodic  
4            inspection program for anhydrous ammonia storage facilities. ~~The chief boiler~~  
5            ~~inspector shall inform the agriculture commissioner of any violation of this chapter that~~  
6            ~~may arise in the course of an inspection of an anhydrous ammonia storage facility.~~
- 7       2.    The ~~insurance~~agriculture commissioner shall inspect each anhydrous ammonia  
8            storage facility at least once every five years and may inspect any farm transportation  
9            wagon or vehicle designed to apply anhydrous ammonia which is in the vicinity of an  
10          anhydrous ammonia storage facility.
- 11      3.    The ~~insurance~~agriculture commissioner may inspect any anhydrous ammonia storage  
12          facility where the commissioner has reason to believe violations of the safety  
13          standards under this chapter exist.
- 14      4.    The agriculture commissioner may revoke or suspend the license of any anhydrous  
15          ammonia storage facility violating this chapter or the rules adopted under this chapter.  
16          The commissioner may order the discontinuance of use of any farm transportation  
17          wagon or implement of husbandry which is found unsafe or hazardous.

18       **SECTION 4. AMENDMENT.** Section 19-20.2-07.1 of the North Dakota Century Code is  
19    amended and reenacted as follows:

20       **19-20.2-07.1. Reinstalled and secondhand anhydrous ammonia storage containers -**  
21    **Requirement.**

- 22      1.    Before anhydrous ammonia may be stored in a reinstalled or secondhand container,  
23            including a nurse tank, the person intending to store the anhydrous ammonia shall  
24            furnish the ~~chief boiler inspector~~agriculture commissioner with:
- 25          a.   Evidence that the container is registered with the national board of boiler and  
26               pressure vessel inspectors; or
- 27          b.   The manufacturer's data report for the container.
- 28      2.    Subsection 1 is not applicable to the owner of an anhydrous ammonia storage  
29          container installed in this state before November 1, 1987, unless the storage container  
30          is reinstalled at another location.

1       **SECTION 5. AMENDMENT.** Section 19-20.2-08.4 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **19-20.2-08.4. Hydrostatic test procedures.**

4       Any hydrostatic test conducted under section 19-20.2-05 must comply with the  
5 requirements of the national board inspection code (ANSI-NB 23) and be conducted in a  
6 manner approved by the ~~chief boiler inspector~~ agriculture commissioner.

7       **SECTION 6. AMENDMENT.** Section 19-20.2-09 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9       **19-20.2-09. Enforcement.**

- 10       1. The agriculture commissioner shall enforce the requirements of this chapter and any  
11       rules issued under it.
- 12       2. The commissioner may bring an action to enjoin the violation or threatened violation of  
13       this chapter, or any rule issued pursuant to this chapter, in the district court of the  
14       county in which the violation occurs or is about to occur.
- 15       3. The agriculture commissioner may issue a cease and desist order to any person  
16       allegedly violating this chapter. If any person violates the cease and desist order, the  
17       commissioner shall file the appropriate criminal complaint.
- 18       4. For the purpose of carrying out this chapter, the agriculture commissioner ~~and the~~  
19       ~~insurance commissioner~~ may enter upon any public or private premises at reasonable  
20       times to:
  - 21       a. Inspect any equipment subject to this chapter and the premises on which the  
22       equipment is stored or used.
  - 23       b. Inspect or investigate complaints.
  - 24       c. Inspect any premises or other place where anhydrous ammonia or devices are  
25       held for distribution, sale, or use.
- 26       5. If a civil penalty pursuant to section 19-20.2-10 is imposed by the agriculture  
27       commissioner through an administrative hearing and the civil penalty is not paid, the  
28       commissioner may collect the civil penalty by a civil action in any appropriate court.  
29       Additionally, the commissioner may suspend or revoke a license issued pursuant to  
30       this chapter for failure to pay a civil penalty within thirty days after a final determination  
31       is made.

1       **SECTION 7. AMENDMENT.** Section 19-20.2-11 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **19-20.2-11. Rules relating to security measures for nurse tanks.**

4       The ~~insurance~~agriculture commissioner shall adopt rules identifying a critical  
5 methamphetamine use zone in the state and establishing appropriate security measures to be  
6 implemented by the owners and users of anhydrous ammonia nurse tanks located within the  
7 zone as a pilot project. The ~~insurance~~agriculture commissioner may establish the duration of the  
8 pilot project, and may require the locking of anhydrous ammonia nurse tanks or other security  
9 measures as are deemed necessary to curb the illegal theft of anhydrous ammonia within the  
10 zone. The ~~insurance~~agriculture commissioner shall enforce any rules adopted pursuant to this  
11 section.

12       **SECTION 8. REPEAL.** Section 19-20.2-08.1 of the North Dakota Century Code is repealed.