

*{As Amended by Senate Committee of the Whole}*

SO - Hoffman Balloon 1 - 3/20/13

*As Amended by Senate Committee*

*Session of 2013*

**SENATE BILL No. 147**

By Committee on Agriculture

2-6

1 AN ACT concerning agriculture; relating to fertilizers; anhydrous  
2 ammonia; permits; fees; liability insurance requirement; affidavit;  
3 anhydrous ammonia fee fund; amending K.S.A. 2-1212 and 2-1217 and  
4 K.S.A. 2012 Supp. 2-1220 and repealing the existing sections.  
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) Beginning January 1, 2014, and annually  
8 thereafter, each tank applying, holding, storing or transporting anhydrous  
9 ammonia in the state shall be required to have a permit to fill issued by the  
10 secretary.

11 (1) Anhydrous ammonia tank owners shall submit to the secretary an  
12 application, on forms provided by the secretary, for a permit to fill each  
13 tank. ~~Such application shall require such owner to provide proof of a~~  
14 ~~certificate of liability insurance, as provided in subsection (f).~~

15 (2) A permit to fill shall be valid from January 1 to December 31 of  
16 each calendar year. There shall be no charge for such permit, except that  
17 the secretary may charge a late fee for any owner of a tank renewing a  
18 permit to fill such tank after February 1 of each year.

19 (b) No supplier, distributor or service company shall cause any tank  
20 to be filled with anhydrous ammonia within this state unless such tank  
21 displays a current permit to fill from the secretary.

22 (c) Any anhydrous ammonia tank placed into service in this state on  
23 and after July 1, 2013, shall have appropriate affixed data plates, stamps or  
24 markings or the owner shall have manufacturer or testing documents  
25 meeting national or industry standards that indicate that such tank is rated  
26 to hold contents under a working pressure of 250 pounds per square inch  
27 or greater.

28 (d) The secretary shall create a policy to remove current anhydrous  
29 ammonia tanks from service that do not meet the standards, as established  
30 by the secretary in rules and regulations, or that do not have attached data  
31 plates, stamps or marking or for which the owner does not have  
32 manufacturer or testing documents meeting national or industry standards  
33 that indicates that such tank is rated to hold content under a working  
34 pressure of 250 pounds per square inch.

House Agriculture & Natural  
Resources Committee

Date 3-22-2013

Attachment # 2

(e) All persons or businesses providing, selling or exposing for sale, storing or holding anhydrous ammonia shall carry liability insurance in an amount sufficient to provide coverage for reasonably anticipated losses and shall submit to any inspections of such business by the provider of such coverage ~~have anhydrous tanks inspected annually by inspectors approved by the secretary as qualified to perform such inspections~~. Inspection reports shall be maintained at the facility or owner's place of business for a period of not less than five years and shall be made available, upon request, to the secretary or duly authorized representatives of the secretary, pursuant to K.S.A. 2-1217, and amendments thereto.

(f) Each anhydrous ammonia tank owner shall furnish to the secretary proof of financial responsibility in the form of a certificate of liability insurance conforming to the requirements of this section before a permit to fill shall be issued by the secretary. Such certificate of liability insurance shall be executed by an insurance company authorized to do business in this state or by a licensed insurance agent operating under the authority of K.S.A. 40-246b, and amendments thereto, on a form provided by the secretary, and shall state the effective date and the expiration date of such liability insurance.

(1) Such liability insurance shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance pursuant to K.S.A. 40-216, and amendments thereto, except as authorized by K.S.A. 40-246b, and amendments thereto.

(2) The liability insurance policy shall provide: (A) Coverage for bodily injury liability for each occurrence; and (B) coverage for property damage liability for each occurrence.

(3) The insurer shall notify the secretary, in writing, of any expiration, reduction or cancellation of liability insurance, furnished as a prerequisite of receiving such a permit to fill not later than 10 days before the expiration, reduction or cancellation takes effect. Upon expiration, reduction or cancellation of such liability insurance, the secretary shall suspend such anhydrous ammonia tank permit to fill until the liability insurance requirement is met by the permittee for the current permit period.

(g) The secretary shall develop rules and regulations that recognize governmental and other business self-insurance programs and utility companies, railroads and transportation companies that comply with and are inspected under federal regulations of anhydrous ammonia.

(h) The secretary may inspect, upon complaint, and may levy civil penalties for filling anhydrous ammonia tanks without appropriate permits or anhydrous ammonia tanks that, upon complaint, are found not to comply with any safety standards adopted by the secretary in rules and regulations and for other acts in violation of this section. Any person who

reinsert struck language on lines 2-5

reinstate all in lines 12 through 34

(h) The secretary: (1) Shall annually inspect any anhydrous ammonia tank owner who is not annually inspected by such owner's liability insurance provider and is not inspected under federal regulations pursuant to subsection (g); and (2) may inspect any anhydrous tank owner upon receiving a complaint that such owner is violating the provisions of this section.

(i)

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2

provisions of the anhydrous ammonia regulation act

the secretary or the secretary's designee

such tanks,

during normal operating hours

use

the anhydrous ammonia regulation act

1 with safety;

2 (d) to effectuate the requirements of article 12 of chapter 2 of the

3 ~~Kansas Statutes Annotated, and amendments thereto; and~~

4 ~~Said (e) such rules and regulations shall be such as are reasonably~~

5 ~~necessary for the safety of the public and persons using such material.~~

6 Sec. 4. K.S.A. 2-1217 is hereby amended to read as follows: 2-1217. For

7 the purposes of administering this act ~~article 12 of chapter 2 of the Kansas~~

8 ~~Statutes Annotated, and amendments thereto, the administrative personnel~~

9 ~~and employees of the department shall have the right to enter private~~

10 ~~property and to inspect facilities and equipment. It shall be the duty of~~

11 ~~employees to notify the owner or operator of any anhydrous ammonia~~

12 ~~facility or equipment, (1) Of any defect or deficiency in the construction,~~

13 ~~installation or operation of any such facility or equipment; and (2) of any~~

14 ~~defect or deficiency in the safety equipment or in the use thereof. The~~

15 ~~owner or operator of such facility or equipment may be given a specified~~

16 ~~reasonable time within which to comply with the rules and regulations. The~~

17 ~~secretary, or an authorized representative of the secretary, may enter any~~

18 ~~premises or vehicle in or on which any anhydrous ammonia may be~~

19 ~~located or used for the purposes of trade for the purpose of inspecting,~~

20 ~~testing and sealing or rejecting the same. Whoever hinders, obstructs or~~

21 ~~in any way interferes with the secretary or an authorized representative~~

22 ~~of the secretary, while in the performance of the inspection, shall be~~

23 ~~deemed guilty of a class C nonperson misdemeanor. The administrative~~

24 ~~personnel and employees of the department shall have the right to enter~~

25 ~~private property where an anhydrous ammonia tank, facility or~~

26 ~~equipment is located and to inspect facilities and equipment. It shall be~~

27 ~~the duty of employees to notify the owner or operator of any anhydrous~~

28 ~~ammonia facility or equipment. (1) Of any defect or deficiency in the~~

29 ~~construction, installation or operation of any such facility or equipment;~~

30 ~~and (2) of any defect or deficiency in the safety equipment or in the use~~

31 ~~thereof. The owner or operator of such facility or equipment may be~~

32 ~~given a specified reasonable time within which to comply with the rules~~

33 ~~and regulations.}~~

34 Sec. 5. K.S.A. 2012 Supp. 2-1220 is hereby amended to read as

35 follows: 2-1220. Unless the context otherwise requires, as used in this act

36 ~~article 12 of chapter 2 of the Kansas Statutes Annotated, and amendments~~

37 ~~thereto, the following definitions shall apply: (a) "Person" means any~~

38 ~~individual, any association of persons or any corporation.~~

39 (b) "Anhydrous ammonia" and "product" means the compound

40 formed by the combination of the two gaseous elements, nitrogen and

41 hydrogen, in the proportion of one part nitrogen to three parts hydrogen (,

42 by volume), and used or intended for use as an agricultural fertilizer.

43 Anhydrous ammonia is ammonia gas in compressed and liquefied form. It

1 does not include aqueous ammonia which is a solution of ammonia gas in  
2 water.

3 (c) "Department" means the Kansas department of agriculture.

4 (d) "Secretary" means the secretary of agriculture ~~or the secretary-~~  
5 ~~designate.~~

6 Sec. 6. K.S.A. 2-1212 and 2-1217 and K.S.A. 2012 Supp. 2-1220 are  
7 hereby repealed.

8 Sec. 7. This act shall take effect and be in force from and after its  
9 publication in the statute book.

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