

SESSION OF 2013

SUPPLEMENTAL NOTE ON SENATE BILL NO. 147

As Amended by House Committee on
Agriculture and Natural Resources

Brief*

SB 147 would enact new law regarding anhydrous ammonia to be known as the Anhydrous Ammonia Regulation Act. Specifically, the bill would:

- Beginning January 1, 2014, and each year thereafter, require owners of each tank used to apply, hold, store, or transport anhydrous ammonia, to have a permit to fill issued by the Department of Agriculture (Department);
- Establish that permits are valid from January 1 to December 31 of each calendar year. There would not be a charge for the permits, but the Department could charge an applicable late fee;
- Require any anhydrous ammonia tank placed into service after July 1, 2013, to have proof indicating the tank is rated to hold contents under a working pressure of 250 pounds per square inch or greater. The Department would be required to remove those tanks from service that do not meet the 250 pounds per square inch standard;
- Require the annual inspection of anhydrous ammonia tanks whose owners do not have their tanks annually inspected by the owner's liability insurance provider and are not inspected under federal regulations;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Create requirements for maintaining inspection reports;
- Require the Department to develop rules and regulations recognizing 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;
- Allow the Secretary of Agriculture to inspect, upon complaint, any anhydrous tank to ensure compliance with the provisions of law;
- Establish a civil penalty of not more than \$5,000 for each violation and require any civil penalties that are collected to be deposited in the State General Fund;
- Exempt from certain provisions (New Section 1) those motor carriers transporting anhydrous ammonia in a cargo tank subject to federal regulations;
- Define “motor carrier”;
- Prohibit motor carriers from filling tanks with anhydrous ammonia from cargo tanks, unless the tank displays a current permit to fill;
- Through rules and regulations, establish a fee that is applied to all commercial anhydrous ammonia sold, offered or exposed for sale, or distributed in Kansas. The fee could not exceed \$1.67 per 2,000 pounds;
- Establish a process for paying the commercial fees and maintaining the applicable records;

- Establish penalty provisions for filing false reports, failure to pay the necessary fees, and failure to file the required documentation;
- Create the Anhydrous Ammonia Fee Fund;
- Direct that \$1.40 per ton (2,000 pounds) be credited to the State Water Plan Fund with the remainder being deposited to the Anhydrous Ammonia Fee Fund;
- Exempt anhydrous ammonia sold as commercial fertilizer that pays fees under KSA 2-1205 from the new fee provisions;
- Allow the Secretary or the Secretary's designees to enter private property and inspect facilities and equipment where an anhydrous ammonia tank, facility, or equipment is located during normal operating hours. The employees would be authorized to notify owners or operators of facilities or equipment of any defect or deficiencies;
- Give owners and operators of the facilities and equipment a specified reasonable time to comply with rules and regulations; and
- Amend the definition of "Secretary" to include the Secretary's designee.

Background

The bill was introduced by the Senate Committee on Agriculture. At the Senate Committee on Federal and State Affairs hearing, testimony in support of the original bill was provided by the Kansas Department of Agriculture, the Kansas Agribusiness Retailers Association, the Kansas Cooperative Council, and the Kansas Grain and Feed Association. There was no opponent testimony. Neutral

testimony was provided by the Kansas Motor Carriers Association (KMCA). The representative from the KMCA suggested the bill be amended to remove duplicate requirements by exempting motor carriers from the tank registration and insurance provisions as these entities are already regulated at the federal level.

The Senate Committee on Federal and State Affairs amended the bill by deleting provisions relating to liability insurance, adding language relating to inspections by Department representatives, adding rule and regulation authority, and exempting motor carriers already regulated at the federal level.

The Senate Committee of the Whole amended the bill by deleting language authorizing representatives of the Department to enter any premises or vehicle in or on which any anhydrous ammonia is used in order to conduct inspections; by deleting language classifying the obstruction or hindrance of the inspections as a class C, nonperson misdemeanor; and by inserting new language allowing Department employees to enter private property to conduct inspections and to give owners and operators reasonable time to comply with rules and regulations.

The House Committee on Agriculture and Natural Resources amended the bill to:

- Name the act as the Anhydrous Ammonia Regulation Act;
- Clarify that the Secretary or the Secretary's designees have the right to enter private property to inspect facilities or equipment only during normal operating hours;
- Clarify that the Secretary would annually inspect anhydrous ammonia tanks when those tanks are not annually inspected by the owner's liability

insurance provider and when the tanks are not inspected under federal regulation;

- Clarify the language permitting the Secretary to inspect anhydrous ammonia tanks upon receiving a complaint that the owner is violating the provisions of law; and
- Reinsert current law language requiring all persons or businesses providing, selling or exposing for sale, storing, or holding anhydrous ammonia to carry liability insurance (the proposed bill had required tank owner to furnish proof of financial responsibility rather than liability insurance).

The fiscal note as provided by the Division of the Budget on the original bill indicates passage of the bill would increase fee fund revenue and expenditures by \$5,400 for the Department.