

# SENATE BILL No. 786

October 22, 2003, Introduced by Senators GARCIA, BIRKHOLZ, BRATER, BISHOP, GOSCHKA, GEORGE, HARDIMAN, STAMAS, McMANUS, BROWN, TOY, CROPSEY and GILBERT and referred to the Committee on Judiciary.

A bill to establish security practices for certain persons involved in the retail or wholesale sale or use of certain fertilizers; to provide certain powers and duties for certain state agencies; and to provide for immunity from liability under certain circumstances.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "anhydrous ammonia security act".

3       Sec. 3. As used in this act:

4       (a) "Anhydrous ammonia" means an inorganic compound that does  
5 not contain water and consists of 1 nitrogen atom and 3 hydrogen  
6 atoms.

7       (b) "Commission" means the commission of agriculture.

8       (c) "End user" means the person actually using anhydrous  
9 ammonia for a legal purpose.

1 (d) "GAAMPS" means generally accepted agricultural and  
2 management practices established by the commission under section  
3 5.

4 (e) "Seller" means a person selling anhydrous ammonia at  
5 wholesale or retail to an end user.

6 Sec. 5. (1) By June 1, 2004, the commission shall issue  
7 proposed GAAMPS regarding the security of anhydrous ammonia in  
8 the possession of sellers and end users in this state.

9 (2) In establishing the GAAMPS, the commission shall give due  
10 consideration to available department of agriculture information  
11 and written recommendations from the Michigan state university  
12 college of agriculture and natural resources extension, the  
13 department of state police, local law enforcement agencies, the  
14 department of homeland security, and other professional and  
15 industry organizations.

16 Sec. 7. The commission shall work with the department of  
17 treasury to facilitate the filing for the income tax credit for  
18 expenditures and expenses made by sellers and end users relating  
19 to implementing the security measures contained in the GAAMPS.

20 Sec. 9. (1) A seller or end user storing, securing, or  
21 protecting anhydrous ammonia in compliance with the GAAMPS is  
22 immune from tort liability for an injury to a person or damage to  
23 property caused by the storing, securing, or protecting of  
24 anhydrous ammonia.

25 (2) A seller or end user storing, securing, or protecting  
26 anhydrous ammonia in compliance with the GAAMPS is immune from  
27 tort liability for an injury to a person or damage to property

1 caused by a person committing a larceny, attempting to commit a  
2 larceny, or obtaining or using, or attempting to obtain or use,  
3 anhydrous ammonia in a manner contrary to law. The immunity from  
4 tort liability under this subsection includes immunity from  
5 liability for an injury to any other person or damage to property  
6 of any other person who is not the person committing a larceny,  
7 attempting to commit a larceny, or obtaining, using, or  
8 attempting to obtain or use anhydrous ammonia in a manner  
9 contrary to law.

10 (3) Failure of a seller or end user to store, secure, or  
11 protect anhydrous ammonia in compliance with the GAAMPs does not,  
12 by itself, create tort liability for an injury to any person or  
13 damage to any property caused by the storing, securing, or  
14 protecting of anhydrous ammonia and does not create tort  
15 liability for an injury to any other person or damage to property  
16 of any other person who is not the person committing a larceny,  
17 attempting to commit a larceny, or obtaining, using, or  
18 attempting to obtain or use anhydrous ammonia in a manner  
19 contrary to law.

20 (4) Evidence of the failure of a seller or end user to store,  
21 secure, or protect anhydrous ammonia in compliance with the  
22 GAAMPs is not admissible in an action for an injury to any person  
23 or damage to any property caused by the storing, securing, or  
24 protecting of anhydrous ammonia and is not admissible in an  
25 action for an injury to any other person or damage to property of  
26 any other person who is not the person committing a larceny,  
27 attempting to commit a larceny, or obtaining, using, or

1 attempting to obtain or use anhydrous ammonia in a manner  
2 contrary to law.

3 (5) This section applies to any cause of action that accrues  
4 after the effective date of this act.

5 Sec. 11. This act takes effect January 31, 2004.