



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 4635 (Substitute S-1 as reported)  
Sponsor: Representative Goeff Hansen  
House Committee: Agriculture  
Senate Committee: Agriculture, Forestry and Tourism

Date Completed: 6-14-05

### **RATIONALE**

Ammonium nitrate is said to be one of the best sources of crop-nourishing nitrogen available. Evidently, ammonium nitrate fertilizer is inexpensive to manufacture and is well-suited to bolstering certain types of crops, such as fruit trees. Ammonium nitrate also is popular in the construction industry, which uses the chemical for blasting purposes. When it comes into contact with a hydrocarbon, such as fuel oil, and a detonation source, ammonium nitrate will explode. This characteristic, combined with its ready availability and low cost, makes ammonium nitrate fertilizer the explosive of choice among terrorists around the world. In the United States, the April 1995 bombing of the Murrah Federal Building in Oklahoma City, which killed 168 people, involved the use of a truck bomb with an estimated 4,800 pounds of ammonium nitrate fertilizer ("Fertilizer Used In Terror Bombs", CBS News, 4-14-04).

Because of the potential danger represented by this substance, it has been suggested that sales of ammonium nitrate fertilizer should be tracked, and that retailers should have the authority to refuse to sell the fertilizer under suspicious circumstances.

### **CONTENT**

**The bill would amend Part 85 (Fertilizers) of the Natural Resources and Environmental Protection Act to do the following:**

**-- Require retailers to secure ammonium nitrate fertilizer against theft or unauthorized access, and to**

**obtain certain information regarding the sale of such fertilizer.**

- Allow retailers to refuse to sell ammonium nitrate fertilizer under certain circumstances.**
- Prohibit the Michigan Department of Agriculture (MDA) from suspending or revoking the license of a distributor or manufacturer who refused to sell the fertilizer.**

Specifically, a retailer would be required to secure ammonium nitrate fertilizer at all times in order to provide reasonable protection against vandalism, theft, or unauthorized access. Secured storage would include fencing, lighting, and locks.

A retailer would be required to obtain the following information regarding any sale of ammonium nitrate fertilizer:

- Date of sale.
- Quantity purchased.
- The number of the purchaser's valid State operator's license with the appropriate endorsement, if any, or other picture identification card approved for purchaser identification by the MDA.
- The purchaser's name, current address, and telephone number.
- The agency relationship, if any, between the purchaser and the person picking up or accepting delivery of the fertilizer.

A retailer would have to maintain these records for at least two years on a form or using a format recommended by the MDA. The records would have to be made available for inspection and audit upon request of the Department Director.

Records generated by means of the tracking system established under the bill would be exempt from disclosure under the Freedom of Information Act.

Any retailer of ammonium nitrate fertilizer could refuse to sell to any person attempting to purchase it out of season, in unusual patterns or circumstances, or in unusual amounts as determined by the retailer.

The bill would prohibit the MDA from suspending or revoking the license of a distributor or manufacturer who refused to sell ammonium nitrate fertilizer to a person who failed to comply with the request for information upon a sale or to a person who purchased the fertilizer out of season, in unusual amounts, or under a pattern or circumstances considered unusual. (Under Part 85, a person may not manufacture or distribute fertilizer, except specialty fertilizer and soil conditioners, without a license from the MDA.)

MCL 324.8515

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

"Many common chemicals could potentially be used as explosives in bombs, but...ammonium nitrate, used in the bombing of the Murrah Federal Building..., is by far the most commonly accessible explosive material." This conclusion was reached by the Committee on Marking, Rendering Inert, and Licensing of Explosive Materials of the National Research Council, and included in its 1998 report, "Containing the Threat from Illegal Bombings". The committee's ranking of common explosive chemicals was based on availability and accessibility, ease of bomb making, cost, and history of prior use. The use of ammonium nitrate fertilizer by terrorists in bombings from Istanbul to Bali to Oklahoma City makes it clear that sales of this substance should be subject to some controls.

Evidently, some countries, including Germany and Ireland, ban pure ammonium nitrate fertilizer outright, while the European Union as a whole requires that ammonium

nitrate fertilizers containing more than 28% nitrogen feature large, high-density granules, which are more difficult to saturate with fuel oil ("Why Do We Use Explosive Fertilizer?", [slate.msn.com](http://slate.msn.com), 1-6-05). In this country, proposals have been introduced in the U.S. Senate to establish handling and record-keeping requirements (S 1141) and in the U.S. House of Representatives to require a license for the importation, manufacture, distribution, or storage of ammonium nitrate compound (HR 1389). Several states, including Maryland, Nevada, Oklahoma, and South Carolina, reportedly have enacted legislation providing various security measures regarding ammonium nitrate.

In Michigan, sales of ammonium nitrate fertilizer would be subject to record-keeping requirements under the bill, which would enable authorities to track the sale of fertilizer illegally used as an explosive. Retailers also would be allowed to refuse to sell ammonium nitrate fertilizer under circumstances that aroused suspicion. These changes would allow the continued use of an inexpensive, effective fertilizer for legitimate purposes, while giving those in the industry a way to help protect domestic security.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Craig Thiel

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.