

SENATE BILL No. 147

By Committee on Agriculture

2-6

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

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

New Section 2 (a) Beginning January 1, 2014, and annually thereafter, each tank applying, holding, storing or transporting anhydrous ammonia in the state shall be required to have a permit to fill issued by the secretary.

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

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

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

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

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

New section 1: Section 1, section 2 and section 3 and K.S.A. 2-1212 through 2-1220, and amendments thereto, shall be known as the anhydrous ammonia regulation act.

1 violates any provision of this section or article 12 of chapter 2 of the
 2 Kansas Statutes Annotated, and amendments thereto, may incur a civil
 3 penalty in an amount of not more than \$5,000 for each violation. In the
 4 case of a continuing violation, each day such violation continues may be
 5 deemed a separate violation. Such civil penalty may be assessed in
 6 addition to any other penalty provided by law. Any civil penalty assessed
 7 pursuant to this subsection is subject to review in accordance with the
 8 Kansas judicial review act. The secretary shall remit any civil penalty
 9 collected pursuant to this subsection to the state treasurer in accordance
 10 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
 11 receipt of each such remittance, the state treasurer shall deposit the entire
 12 amount in the state treasury to the credit of the state general fund.

13 *(f) The provisions of this section shall not apply to motor carriers*
 14 *transporting anhydrous ammonia in a cargo tank subject to the*
 15 *requirements of 49 C.F.R. § 173.315 as in effect on February 1, 2013,*
 16 *with capacities in excess of 3,500 water gallons.*

17 *"Motor carrier" means any person that holds a certificate of public*
 18 *service or a private carrier permit from the state corporation*
 19 *commission, or is required to register motor carrier equipment pursuant*
 20 *to 49 U.S.C. § 14504a and has a current hazardous materials safety*
 21 *permit issued by the federal motor carrier safety administration of the*
 22 *United States department of transportation as required by 49 C.F.R. §*
 23 *395 subpart E as in effect on February 1, 2013.*

24 *(j) No motor carrier shall cause any tank to be filled with*
 25 *anhydrous ammonia from such cargo tank within this state unless such*
 26 *tank displays a current permit to fill from the secretary.*

27 ~~(k) The section shall be part of and supplemental to article 12 of~~
 28 ~~chapter 2 of the Kansas Statutes Annotated, and amendments thereto.~~

29 New Sec. 33 (a) An anhydrous ammonia fee, fixed by rules and
 30 regulations adopted by the secretary, shall be collected upon all
 31 commercial anhydrous ammonia sold, offered or exposed for sale or
 32 distributed in Kansas, which shall be at a rate per ton of 2,000 pounds,
 33 except that such rate shall not exceed \$1.67 per ton of 2,000 pounds.

34 (b) Each seller of commercial anhydrous ammonia shall register with
 35 the secretary on a form provided by the secretary and shall pay the fee on
 36 such commercial anhydrous ammonia sold, offered or exposed for sale or
 37 distributed in the state. Such seller shall keep adequate records showing
 38 the tonnage of commercial anhydrous ammonia shipped to or sold, offered
 39 or exposed for sale or distributed in the state. The secretary, and duly
 40 authorized representatives of the secretary, shall have authority to examine
 41 such records and other pertinent records necessary to verify the amount of
 42 anhydrous ammonia sold.

43 (c) Each seller of commercial anhydrous ammonia shall file an

the anhydrous ammonia
 regulation act