

A-Engrossed
House Bill 3082

Ordered by the House May 18
Including House Amendments dated May 18

Sponsored by Representative P SMITH

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Provides tax credit for farmers who add nontoxic dye to anhydrous ammonia for purposes of deterring theft by producers of methamphetamine. Applies to tax years beginning on or after January 1, 2006. Requires Department of State Police to certify brands of dye as eligible for credit. Exempts farmers from liability for environmental contamination for use of dye.]

Directs State Department of Agriculture to establish grant program to reimburse distributors and users of anhydrous ammonia for cost of adding nontoxic dye or other approved additives to anhydrous ammonia. Declares that purpose of program is to deter theft of anhydrous ammonia by methamphetamine manufacturers.

Requires Director of Agriculture to appoint Anhydrous Ammonia Additive Review Committee.

Provides certain immunities to lawful users and distributors of anhydrous ammonia.

Sunsets June 30, 2014.

Appropriates moneys from General Fund to State Department of Agriculture for purposes of grants and review committee.

A BILL FOR AN ACT

1
2 Relating to anhydrous ammonia additives; and appropriating money.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 6 of this 2005 Act:**

5 **(1) "Anhydrous ammonia":**

6 **(a) Means a liquid or gaseous inorganic compound that is formed by the chemical combination of nitrogen and hydrogen in the molar proportion of one part nitrogen to three parts**
7 **hydrogen.**

8
9 **(b) Does not mean ammonium hydroxide.**

10 **(2) "Distributor" means a person that imports, consigns, sells, offers for sale, barter,**
11 **exchanges or otherwise facilitates the supply of anhydrous ammonia to a user in this state.**

12 **(3) "Nontoxic dye" means a biodegradable, clear liquid product certified under section 3**
13 **of this 2005 Act that causes staining when exposed to air.**

14 **(4) "Other approved additive" means a product certified under section 3 of this 2005 Act**
15 **other than a nontoxic dye that, when put in tanks containing anhydrous ammonia, renders**
16 **the anhydrous ammonia nonreactive, unusable or undesirable for use as a precursor to the**
17 **manufacture of methamphetamine.**

18 **(5) "User" means a person who applies anhydrous ammonia as a plant nutrient in the**
19 **course of engaging in agricultural activity in this state.**

20 **SECTION 2. (1) The Legislative Assembly finds that:**

21 **(a) Anhydrous ammonia is lawfully used in crop production as a high-nitrogen fertilizer,**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 but also is used in the unlawful manufacture of methamphetamine.

2 (b) Persons who unlawfully manufacture methamphetamine often unlawfully take
3 anhydrous ammonia from distributors or users.

4 (c) The use of additives to anhydrous ammonia that can render the anhydrous ammonia
5 chemically inert or undesirable as a precursor to the manufacture of methamphetamine
6 would be useful in the fight against the unlawful manufacture and use of methamphetamine.

7 (d) The use of additives to anhydrous ammonia that include nontoxic dyes or other like
8 substances that cause a stain on persons and equipment that come in contact with the
9 anhydrous ammonia would be useful in the fight against the unlawful manufacture and use
10 of methamphetamine.

11 (2) The purpose of sections 1 to 6 of this 2005 Act is to decrease the unlawful manufac-
12 ture and use of methamphetamine by encouraging distributors and users to add a nontoxic
13 dye or other approved additive to anhydrous ammonia used as a plant nutrient.

14 **SECTION 3.** (1) The State Department of Agriculture shall administer and enforce a
15 program for the issuance of grants by the department to reimburse distributors and users
16 of anhydrous ammonia for the cost of nontoxic dye or other approved additives that, for the
17 purpose of deterring theft of the anhydrous ammonia by manufacturers of methamphet-
18 amine, are added by the distributors or users to anhydrous ammonia used as a plant nutri-
19 ent.

20 (2) A grant may not exceed the actual cost of the nontoxic dye or other approved additive
21 to the grantee distributor or user.

22 (3) A distributor that accepts a grant under this section may not directly or indirectly
23 charge a user for the cost of the nontoxic dye or other approved additive for which the dis-
24 tributor received the grant.

25 (4) The State Department of Agriculture, by rule and in consultation with the Depart-
26 ment of State Police, shall certify each brand of nontoxic dye or other additive for which an
27 eligible distributor or user adding the dye or other additive to anhydrous ammonia may re-
28 ceive a grant under this section.

29 (5) In accordance with applicable provisions of ORS chapter 183, the State Department
30 of Agriculture shall adopt rules for the administration of this section and section 4 of this
31 2005 Act. The rules shall include, but need not be limited to, grant application procedures
32 and grant eligibility criteria for distributors and users. In adopting distributor and user el-
33 igibility criteria, the State Department of Agriculture shall consult with the Anhydrous
34 Ammonia Additive Review Committee established under section 4 of this 2005 Act.

35 **SECTION 4.** (1) The Director of Agriculture, in consultation with the Superintendent of
36 State Police, shall appoint an Anhydrous Ammonia Additive Review Committee consisting
37 of not fewer than six members. The term of a member is four years, but a member serves
38 at the pleasure of the director.

39 (2) Members of the committee are not entitled to compensation, but in the discretion of
40 the director may be reimbursed from funds available to the State Department of Agriculture
41 for actual and necessary travel and other expenses incurred by them in the performance of
42 their official duties in the manner and amount provided in ORS 292.495.

43 (3) The members of the committee shall include at least one representative from each
44 of the following:

45 (a) The Department of State Police.

- 1 (b) The State Department of Agriculture.
- 2 (c) Anhydrous ammonia fertilizer manufacturers.
- 3 (d) The Oregon State University Extension Service.
- 4 (e) Retail distributors.
- 5 (f) Users who are growers of agricultural commodities.

6 (4) The committee:

7 (a) May review all relevant scientific and economic data on nontoxic dyes or other addi-
8 tives for anhydrous ammonia that are submitted for certification by the State Department
9 of Agriculture under section 3 of this 2005 Act and shall, at a minimum, review scientifically
10 valid data for each submitted dye or other additive regarding:

- 11 (A) Impact on crop yield;
- 12 (B) Specific food crop residue analysis; and
- 13 (C) Impact on the environment.

14 (b) May issue recommendations to the director regarding whether a nontoxic dye or
15 other additive to anhydrous ammonia should be certified by the State Department of Agri-
16 culture under section 3 of this 2005 Act.

17 **SECTION 5.** A lawful distributor or user of anhydrous ammonia to which a nontoxic dye
18 or other approved additive is added is immune from liability under ORS chapter 465 for any
19 environmental contamination caused by that nontoxic dye or other approved additive if the
20 contamination results from an agricultural application of anhydrous ammonia as a plant
21 nutrient.

22 **SECTION 6.** A lawful distributor or user who adds a nontoxic dye or other approved ad-
23 ditive to anhydrous ammonia fertilizer and a lawful user who purchases anhydrous ammonia
24 to which a nontoxic dye or other approved additive has been added are immune from liability
25 for personal injury, death or property damage caused by the anydrous ammonia, dye or ad-
26 ditive and resulting from a theft or attempted theft of the anhydrous ammonia or from the
27 unlawful obtaining, use or attempted obtaining or use of the anhydrous ammonia. The im-
28 munity conferred by this section applies against all persons suffering personal injury, death
29 or property damage, without regard to whether the person was involved in the theft or at-
30 tempted theft or in unlawfully obtaining, using or attempting to obtain or use the anhydrous
31 ammonia.

32 **SECTION 7.** (1) Section 3 of this 2005 Act applies to the reimbursement for the cost of
33 nontoxic dye or another approved additive added to anhydrous ammonia on or after the date
34 the nontoxic dye or other approved additive is certified by the State Department of Agricul-
35 ture.

36 (2) Section 5 of this 2005 Act applies to environmental contamination from events oc-
37 ccurring on or after the effective date of this 2005 Act.

38 (3) Section 6 of this 2005 Act applies to personal injury, death or property damage oc-
39 ccurring on or after the effective date of this 2005 Act.

40 **SECTION 8.** (1) Sections 1 to 6 of this 2005 Act are repealed.

41 (2) The repeal of sections 5 and 6 of this 2005 Act by subsection (1) of this section does
42 not terminate any immunity of a distributor or user from liability for environmental con-
43 tamination, personal injury, death or property damage resulting from the distribution, use
44 or storage, prior to the repeal of sections 5 and 6 of this 2005 Act, of anhydrous ammonia
45 by the distributor or user.

1 **SECTION 9. Section 8 of this 2005 Act becomes operative June 30, 2014.**

2 **SECTION 10. In addition to and not in lieu of any other appropriation, there is appro-**
3 **riated to the State Department of Agriculture, for the biennium beginning July 1, 2005, out**
4 **of the General Fund, the amount of \$150,000, which may be expended for carrying out**
5 **sections 3 and 4 of this 2005 Act.**

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