

ENGROSSED HOUSE
BILL NO. 2074

By: Rice, Begley, Gilbert and
Nance of the House

and

Wilkerson of the Senate

An Act relating to anhydrous ammonia equipment; amending 2 O.S. 2001, Section 8-85.13, which relates to penalties for tampering or attempting to tamper with anhydrous ammonia equipment; updating and clarifying language; adding to activities constituting a crime; amending 52 O.S. 2001, Section 47.6, which relates to the Hazardous Liquid Transportation System Safety Act; setting minimum criminal penalty; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 2 O.S. 2001, Section 8-85.13, is amended to read as follows:

Section 8-85.13 A. Except for necessary repairs to anhydrous ammonia equipment conducted by a registered distributor, supplier, dealer, or the owner of the equipment or designee of the owner, it shall be unlawful for any person to tamper with or attempt to tamper with any anhydrous ammonia pipeline, equipment, container, or storage device. Any person violating this provision shall, upon conviction thereof, be guilty of a felony punishable by imprisonment in the State Penitentiary for a term not exceeding five (5) years, by a fine of not more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

B. "Tampering" for purposes of this section means any unauthorized adjustment, opening, removal, transfer, alteration, change, or interference with any part of the anhydrous ammonia pipeline, equipment, container, or storage device.

C. Theft or attempted theft of any amount of anhydrous ammonia shall be a felony punishable upon conviction thereof by imprisonment

for not less than two (2) years nor more than ten (10) years in the State Penitentiary, by a fine not exceeding Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

D. Any person who commits or attempts theft of anhydrous ammonia or who unlawfully tampers with or attempts to unlawfully tamper with any anhydrous ammonia pipeline, equipment, container, or storage device, and as a result of unlawful conduct is injured shall be barred from commencing any civil action against the following persons:

1. Any owners of anhydrous ammonia or anhydrous ammonia pipeline, equipment, containers, or storage devices;

2. Any persons responsible for the installation, repair, or operation of anhydrous ammonia pipeline, equipment, containers, or storage devices;

3. Any person lawfully selling, transporting, transferring, or delivering anhydrous ammonia or anhydrous ammonia equipment, containers, or storage devices;

4. Any persons purchasing or storing anhydrous ammonia for agricultural purposes; or

5. Any persons operating anhydrous ammonia equipment or pipeline or using anhydrous ammonia for agricultural purposes.

SECTION 2. AMENDATORY 52 O.S. 2001, Section 47.6, is amended to read as follows:

Section 47.6 A. Any person who has been determined by the Commission to have violated any provisions of the Hazardous Liquid Transportation System Safety Act or any rule, regulation, or order issued pursuant to the provisions of the Hazardous Liquid Transportation System Safety Act shall be liable for ~~a civil~~ an administrative penalty of not more than Ten Thousand Dollars (\$10,000.00) for each day that said violation continues. The maximum ~~civil~~ administrative penalty shall not exceed Five Hundred Thousand Dollars (\$500,000.00) for any related series of violations.

B. 1. The amount of the penalty shall be assessed by the Commission pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Commission shall include but not be limited to consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Hazardous Liquid Transportation System Safety Act.

2. All penalties collected pursuant to the provisions of this subsection shall be deposited in the Pipeline Enforcement Fund.

C. Any person who willfully and knowingly injures or destroys, or attempts to injure or destroy, any hazardous liquid transportation system, upon conviction thereof, shall be guilty of a felony and shall be subject for each offense to a fine of not more than Twenty-five Thousand Dollars (\$25,000.00) ~~or~~ and imprisonment for a term not less than five (5) years and not to exceed fifteen (15) years, or by both such fine and imprisonment.

SECTION 3. This act shall become effective November 1, 2002.

Passed the House of Representatives the 13th day of February,
2002.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2002.

Presiding Officer of the Senate