

HOUSE BILL REPORT

2SSB 6255

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to anhydrous ammonia.

Brief Description: Prescribing penalties for unlawful possession and storage of anhydrous ammonia.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Rasmussen, Prentice, Morton, Franklin, Heavey, Brown and Goings).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/25/00 [DPA].

Brief Summary of Second Substitute Bill
(As Amended by House Committee)

- Creates penalties for crimes involving anhydrous ammonia, a precursor substance used to manufacture methamphetamine.
- Theft of anhydrous ammonia is a seriousness level VIII, class C felony.
- Unlawful storage of anhydrous ammonia is a seriousness level VI, class C felony.
- Possession of anhydrous ammonia with intent to manufacture methamphetamine is a seriousness level VIII, class B felony.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass as amended. Signed by 7 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; Constantine; Kagi and Koster.

Staff: Yvonne Walker (786-7841).

Background:

Methamphetamine is a controlled substance. It is a felony crime to manufacture, deliver, or possess with intent to manufacture or deliver methamphetamine.

In addition, the possession of some methamphetamine precursors such as ephedrine or pseudoephedrine is a felony crime. Possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine is classified as a seriousness level VIII, class B felony under the sentencing guidelines. A first-time offender's presumptive range is 21 to 27 months in prison.

Other precursor substances used to make methamphetamine include: lithium found in lithium batteries, pseudoephedrine found in cold medicines such as Sudafed, and anhydrous ammonia which is most commonly used as a commercial nitrogen fertilizer and refrigerant. Anhydrous ammonia is stored under high pressure and can cause burns and other injuries if mishandled. Possession of anhydrous ammonia is not a felony offense in Washington.

The maximum penalty for a class B felony is 10 years in prison, a \$20,000 fine, or both. The maximum penalty for a class C felony is five years in prison, a \$10,000 fine, or both.

Summary of Amended Bill:

Several new sections are added to the Uniform Controlled Substance Act, creating three new crimes: theft of anhydrous ammonia, unlawful storage of anhydrous ammonia, and possession of anhydrous ammonia with intent to manufacture methamphetamine.

Theft of anhydrous ammonia is a seriousness level VIII, class C felony. A person who intentionally deprives an owner or an owner's agent by wrongfully obtaining anhydrous ammonia is guilty of theft from anhydrous ammonia. A first-time offender's presumptive range is 21-27 months in prison.

Unlawful storage of anhydrous ammonia is a seriousness level VI, class C felony. A person who possesses anhydrous ammonia in a container that is not approved by the United States Department of Transportation to hold anhydrous ammonia or that does not meet state and federal industrial health and safety standards for holding anhydrous ammonia, is guilty of unlawful storage of anhydrous ammonia. A first-time offender's presumptive range is 12 (plus one day) to 14 months in prison.

Possession of anhydrous ammonia with intent to manufacture methamphetamine is a seriousness level VIII, class B felony. A first-time offender's presumptive range is 21-27 months in prison.

A lawful owner of anhydrous ammonia equipment may not be held liable for any unlawful tampering or damages of his or her equipment unless the particular damages are due to such person's acts or omissions that constitute negligent misconduct regarding anhydrous ammonia possession and storage.

Amended Bill Compared to Second Substitute Bill: Three new crimes are created and ranked in the Uniform Controlled Substance Act, instead of the State Agriculture Act. Theft of anhydrous ammonia is a seriousness level VIII, class C felony. Unlawful storage of anhydrous ammonia is a seriousness level VI, class C felony. Possession of anhydrous ammonia with intent to manufacture methamphetamine is a seriousness level VIII, class B felony.

A null and void clause is added to the act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void if not funded in the budget.

Testimony For: Years ago the sole use of anhydrous ammonia was only used on farms. Now offenders are using anhydrous ammonia for the production of methamphetamine. In addition, the stealing of anhydrous ammonia has been becoming more and more prevalent. This bill not only assigns penalties for the theft of anhydrous ammonia, but it also limits the liability for those lawful owners who have justifiable reasons for owning such equipment.

Testimony Against: None.

Testified: Senator Rasmussen, prime sponsor; and Dan Coyne, Far West Fertilizer.