

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 785 Anhydrous Ammonia
SPONSOR(S): Stansel
TIED BILLS: **IDEN./SIM. BILLS:** SB 1080

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice	6 Y, 0 N	Kramer	De La Paz
2) Public Safety & Crime Prevention	17 Y, 0 N	Kramer	De La Paz
3) Agriculture		Kaiser	Reese
4) Appropriations			
5)			

SUMMARY ANALYSIS

Anhydrous ammonia is a chemical which is used as an agricultural fertilizer and is also used in the illicit manufacture of methamphetamine. HB 785 adds anhydrous ammonia to the list of "precursor chemicals" - chemicals which may be used in manufacturing a controlled substance - which are contained in section 893.033, F.S. As a result, possession of anhydrous ammonia with the intent to unlawfully manufacture a controlled substance will be a second degree felony.

HB 785 also amends the theft statute to add theft of anhydrous ammonia to the list of specified items that, if stolen, constitute grand theft, a third degree felony.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0785c.ag.doc
DATE: March 28, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Anhydrous ammonia

Anhydrous¹ ammonia is a chemical which is used as an agricultural fertilizer and an industrial refrigerant. Anhydrous ammonia is also used in the illicit manufacture of methamphetamine. Methamphetamine is a Schedule II drug under Florida law.² It is a second degree felony to sell, manufacture or deliver methamphetamine.³

In March of 2000, the Environmental Protection Agency (EPA) issued a Chemical Safety Alert regarding the theft of anhydrous ammonia. According to the alert:

Anhydrous ammonia is toxic...and can be a health hazard. Effects of inhalation of anhydrous ammonia range from lung irritation to severe respiratory injuries, with possible fatality at higher concentrations. Anhydrous ammonia also is corrosive and can burn the skin and eyes.

Anhydrous ammonia is stored as a compressed liquid and becomes a gas when released. According to the EPA alert, anhydrous ammonia costs as little as 200 dollars per ton for agricultural purposes but can sell for as much as 300 dollars per gallon on the black market.

Precursor chemicals

A precursor chemical is a chemical that “may be used in manufacturing a controlled substance in violation of [chapter 893, F.S.] and is critical to the creation of the controlled substance.” (s. 893.033, F.S.) Section 893.149, F.S. makes it a second degree felony to knowingly or intentionally:

- (a) possess a precursor chemical with the intent to unlawfully manufacture a controlled substance; or

¹ The term “anhydrous” means “without water”.

² s. 893.03(2)(c)4, F.S. Florida and federal drug statutes lists controlled substances in “schedules” ranging from Schedule I to Schedule V. s. 893.03(2)-(5), F.S. A Schedule II substance has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of the substance may lead to severe psychological or physical dependence.

³ s. 893.13(1)(a)1, F.S. Penalties are enhanced if the sale occurs within 1,000 feet of a school, child care facility, college, park, place of worship, or public housing facility. (see s. 893.13(1)(c), (d), (e) and (f)). Section 893.135(1)(f), F.S. proscribes penalties for trafficking in more than 14 grams of methamphetamine. The offense requires the imposition of a minimum mandatory sentence ranging from 3 years to 15 years depending on the amount of methamphetamine involved.

(b) possess or distribute a precursor chemical knowing, or having reasonable cause to believe, that the chemical will be used to unlawfully manufacture a controlled substance.

Changes made by HB 785 relating to precursor chemicals:

HB 785 adds anhydrous ammonia to the list of precursor chemicals contained in section 893.033, F.S. As a result, it will be a second degree felony to possess this chemical with the intent to unlawfully manufacture a controlled substance or with knowledge that it will be used to manufacture a controlled substance.

Theft

The theft statute provides the following:

A person commits theft if he or she knowingly obtains uses or endeavors to obtain or to use, the property of another with intent to either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property.
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.

Theft is a misdemeanor if the value of the property stolen is less than \$300. (s. 812.014(2)(e), F.S.) Theft of property worth \$300 or more but less than \$20,000 constitutes grand theft, a third degree felony. (s. 812.014(2)(c), F.S.) Theft of any of a specified list of items is a third degree felony even if the value of the property stolen is less than \$300. The list includes:

- a will,
- a firearm,
- a motor vehicle
- a commercially farmed animal,
- a fire extinguisher,
- any amount of citrus consisting of 2,000 or more individual pieces of fruit,
- any property taken from a designated construction site
- a stop sign

Changes made by HB 785 to theft statute:

The bill adds anhydrous ammonia to the above list of property. As a result, theft of anhydrous ammonia will constitute grand theft, a third degree felony.

C. SECTION DIRECTORY:

Section 1: Amends s. 812.014, F.S.; providing that theft of anhydrous ammonia is a third degree felony.

Section 2: Amends s. 893.033, F.S.; adding anhydrous ammonia to the list of precursor chemicals.

Section 3: Reenacts 893.149, F.S.; relating to the unlawful possession or distribution of a listed chemical for the purpose of incorporating the amendment to section 893.033, F.S.

Section 4: Provides effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

The Criminal Justice Impact Conference has not considered the prison bed impact of this bill on the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES