S T A T E O F N E W Y O R K

3058

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. BENJAMIN -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to storage of certain caustic substances

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative findings. The legislature hereby finds and declares that the illegal siphoning of ammonium hydroxide or anhydrous ammonia from privately owned storage tanks located primarily on farms across the state of New York is both a crime and a public health hazard. The anhydrous ammonia is used as an ingredient in the production of methamphetamine, an illegal dangerous stimulant drug. The legislature further finds that too many of these storage tanks are unlocked to unauthorized persons. Therefore, requiring the storage tanks to be retrofitted to lock to prevent unauthorized access is in the public interest.

S 2. The agriculture and markets law is amended by adding a new article 14-B to read as follows:

ARTICLE 14-B

STORAGE OF CERTAIN CAUSTIC SUBSTANCES

SECTION 172-M. DEFINITIONS.
172-N. CAUSTIC SUBSTANCE STORAGE REQUIREMENTS.
172-O. POWER OF COMMISSIONER TO INSPECT.
172-P. ENFORCEMENT OF ARTICLE.
172-Q. PENALTIES FOR VIOLATIONS.
172-R. RULES AND REGULATIONS.
172-S. CONSTRUCTION OF ARTICLE.

S 172-M. DEFINITIONS. THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "ANHYDROUS AMMONIA" MEANS THE DEHYDRATED VERSION OF THE LIQUID FERTILIZER AMMONIUM HYDROXIDE (NH3), AS DEFINED IN PARAGRAPH (1) OF SUBDIVISION ONE OF SECTION ONE HUNDRED SEVENTY-ONE OF THIS CHAPTER.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD05567-01-9

2. "NURSE TANKS" MEANS ONE TYPE OF CONTAINER SYSTEM CURRENTLY USED TO STORE ANHYDROUS AMMONIA ON FARMS.

3. "TANK LOCK" MEANS ANY OF SEVERAL TYPES OF VALVE LOCKING DEVICES CURRENTLY AVAILABLE TO PREVENT UNAUTHORIZED ACCESS TO ANHYDROUS AMMONIA STORAGE TANKS.

S 172-N. CAUSTIC SUBSTANCE STORAGE REQUIREMENTS. 1. IT SHALL BE UNLAWFUL TO STORE THE FOLLOWING CAUSTIC SUBSTANCES IN A NURSE TANK OR STORAGE TANK WITHOUT AN APPROVED TANK LOCK TO PREVENT UNAUTHORIZED ACCESS: ANHYDROUS AMMONIA OR AMMONIUM HYDROXIDE.

2. THE DEPARTMENT SHALL ESTABLISH A PROCEDURE FOR APPROVING TANK LOCKS EFFECTIVE IN PREVENTING UNAUTHORIZED SIPHONING OF SUCH CAUSTIC SUBSTANCES.

S 172-O. POWER OF COMMISSIONER TO INSPECT. THE COMMISSIONER SHALL HAVE POWER TO INSPECT ANY SITE UTILIZING A STORAGE TANK CONTAINING THE CAUSTIC SUBSTANCES AS PROVIDED IN SECTION ONE HUNDRED SEVENTY-TWO-N OF THIS ARTICLE, FOR THE PURPOSE OF ASSESSING THE EFFECTIVENESS OF THE TANK LOCKS, AND INVESTIGATING SUSPECTED VIOLATIONS OF THIS ARTICLE.

S 172-P. ENFORCEMENT OF ARTICLE. THE DEPARTMENT SHALL ENFORCE THE PROVISIONS OF THIS ARTICLE, AND IT IS HEREBY AUTHORIZED AND EMPOWERED TO APPROVE AND REGISTER SUCH BRANDS AND LABELS INTENDED FOR USE UNDER THE PROVISIONS OF THIS ARTICLE AS MAY BE SUBMITTED TO IT FOR THAT PURPOSE AND AS MAY IN ITS JUDGMENT CONFORM TO THE REQUIREMENTS OF THIS ARTICLE; PROVIDED, HOWEVER, THAT IN ANY PROSECUTION UNDER THIS ARTICLE THE FACT THAT ANY BRAND OR LABEL INVOLVED IN SAID PROSECUTION HAS NOT BEEN SUBMITTED TO SUCH BOARD FOR APPROVAL, OR IF SUBMITTED, HAS NOT BEEN APPROVED BY IT, SHALL BE IMMATERIAL.

S 172-Q. PENALTIES FOR VIOLATIONS. ANY PERSON FOUND IN VIOLATION OF THE PROVISIONS OF THIS ARTICLE SHALL BE GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, BE PUNISHED BY A FINE OF NOT MORE THAN TWO HUNDRED DOLLARS, OR BY IMPRISONMENT FOR NOT MORE THAN NINETY DAYS, OR BY BOTH SUCH FINE AND IMPRISONMENT, IN THE DISCRETION OF THE COURT.

S 172-R. RULES AND REGULATIONS. THE COMMISSIONER SHALL ADOPT AND PROMULGATE SUCH RULES AND REGULATIONS TO SUPPLEMENT AND GIVE FULL EFFECT TO THE PROVISIONS OF THIS ARTICLE AS HE OR SHE MAY DEEM NECESSARY.

S 172-S. CONSTRUCTION OF ARTICLE. THIS ARTICLE IS NOT TO BE CONSTRUED AS APPLYING TO ANY SUBSTANCE, SUBJECT TO THIS ARTICLE, SOLD AT WHOLESALE OR RETAIL FOR USE BY A RETAIL DRUGGIST IN FILLING, OR IN DISPENSING IN PURSUANCE OF, A PRESCRIPTION BY A PHYSICIAN, DENTIST OR VETERINARIAN; OR FOR USE BY OR UNDER THE DIRECTION OF A PHYSICIAN, DENTIST OR VETERINARIAN; OR FOR USE BY A CHEMIST IN THE PRACTICE OR TEACHING OF HIS OR HER PROFESSION; OR FOR ANY INDUSTRIAL OR PROFESSIONAL USE OR FOR USE IN ANY OF THE ARTS AND SCIENCES.

S 3. Reporting requirements. The commissioner of agriculture and markets shall make a report to the legislature within two years of the effective date of this act assessing the effectiveness of the provisions of article 14-B of the agriculture and markets law, as added by section two of this act, in deterring the unlawful siphoning of ammonium hydroxide or anhydrous ammonia from storage tanks and recommendations for future legislation.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.