

## **BILL ANALYSIS**

Senate Research Center

H.B. 2546  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Ammonium nitrate is a chemical compound commonly used as fertilizer. However, the compound can also be used to create explosives. Current law provides no restrictions on the sale and purchase of ammonium nitrate, nor does it require sellers of ammonium nitrate to register with the state.

H.B. 2546 requires sellers of ammonium nitrate to register with the state and to keep records of purchasers of ammonium nitrate. The bill also establishes penalties for sellers not in compliance with the registration requirement, for individuals who present false identification to purchase ammonium nitrate, and for individuals who purchase the compound with the intention of manufacturing an explosive device.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Feed and Fertilizer Control Service in SECTION 1 (Section 63.154, Agriculture Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 63, Agriculture Code, by adding Subchapter I, as follows:

#### **SUBCHAPTER I. AMMONIUM NITRATE**

Sec. 63.151. DEFINITIONS. Defines “ammonium nitrate” and “ammonium nitrate material.”

Sec. 63.152. REGISTRATION REQUIRED. (a) Prohibits a person from offering for sale or selling ammonium nitrate or ammonium nitrate material (ammonium nitrate) unless the person holds a certificate of registration issued by the service under this subchapter.

(b) Requires an application for a registration to be submitted and accompanied by a fee as set forth in this subsection.

(c) Requires a person who engages in the sale of ammonium nitrate to display the person's registration in conspicuous public view in the person's place of business.

Sec. 63.153. SECURITY REQUIREMENTS. Requires a person who engages in the sale of ammonium nitrate to take steps to secure the ammonium nitrate stored at the person's facility against vandalism, theft, or other unauthorized access, including taking certain actions set forth in this section.

Sec. 63.154. SALE OF AMMONIUM NITRATE. (a) Requires a person that engages in the sale of ammonium nitrate, before completing the sale, to take certain actions set forth in this subsection related to establishing the buyer's identity and recording the buyer's identifying information.

(b) Requires the Texas Feed and Fertilizer Control Service (service) to adopt rules allowing a person to refuse to sell ammonium nitrate based on the season or

the location of the sale and distribute forms to each person registered under this subchapter to be used to record the information required under Subsection (a).

Sec. 63.155. MAINTENANCE OF RECORDS. Requires a person who offers to sell or sells ammonium nitrate to maintain each record made under Section 63.154 until at least the second anniversary of the date the record is made and to make each record available only on request to certain state and federal governmental entities.

Sec. 63.156. SUSPENSION OF REGISTRATION. Authorizes the service to suspend the person's registration in the manner set forth in this section if the service finds that a person registered under this subchapter offered to sell or sold ammonium nitrate in violation of this subchapter or a rule adopted under this subchapter.

Sec. 63.157. CRIMINAL PENALTY. (a) Provides that a person commits an offense if the person tampers with ammonium nitrate stored on the property of another or presents false identification to purchase ammonium nitrate.

(b) Provides that a person commits an offense if the person purchases ammonium nitrate with the intent to manufacture an explosive device.

(c) Provides that a person commits an offense if the person offers to sell or sells ammonium nitrate and does not hold a registration issued under this subchapter.

(d) Provides that an offense under Subsection (a) or (c) is a Class A misdemeanor.

(e) Provides that an offense under Subsection (b) is a felony of the third degree.

(f) Provides that it is an exception to the application of Subsection (b) that the person holds a permit or license issued under 18 U.S.C. Section 843 (Licenses and User Permits).

(g) Provides that, if conduct constituting an offense under this section is also an offense under another law, the actor may be prosecuted under this section, the other law, or both.

SECTION 2. (a) Makes application of Section 63.154, Agriculture Code, as added by this Act, prospective.

(b) Prohibits the provisions of Section 63.154, Agriculture Code, as added by this Act, that require the collection of certain customer personal information by a person that sells ammonium nitrate as required by that section from being enforced until the service has adopted rules under that section and distributed the forms required by that section to affected businesses in this state.

(c) Makes application of Section 63.157, Agriculture Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2007.