

By: Noriega

H.B. No. 2546

A BILL TO BE ENTITLED

AN ACT

relating to the sale of ammonium nitrate; creating an offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 63, Agriculture Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. AMMONIUM NITRATE

Sec. 63.151. DEFINITIONS. In this subchapter:

(1) "Ammonium nitrate" means ammonium salt of nitric acid that contains more than 33 percent nitrogen, one-half of which is the 50 ammonium form and one-half of which is the nitrate form.

(2) "Ammonium nitrate material" means solid fertilizer that includes ammonium nitrate as a component, if the fertilizer's nitrogen content derived from the ammonium nitrate is at least 28 percent of the fertilizer by weight.

Sec. 63.152. REGISTRATION REQUIRED. (a) A person may not offer for sale or sell ammonium nitrate or ammonium nitrate material unless the person holds a certificate of registration issued by the service under this subchapter.

(b) An application for a registration must be:

(1) submitted on a form prescribed by the service; and
(2) accompanied by a fee in an amount sufficient to cover the service's costs to administer this subchapter.

(c) A person who engages in the sale of ammonium nitrate or ammonium nitrate material must display the person's registration in

1 conspicuous public view in the person's place of business.

2 Sec. 63.153. SECURITY REQUIREMENTS. A person who engages
3 in the sale of ammonium nitrate or ammonium nitrate material shall
4 take steps to secure the ammonium nitrate or ammonium nitrate
5 material stored at the person's facility against vandalism, theft,
6 or other unauthorized access, including:

7 (1) ensuring that a storage facility is fenced or
8 otherwise enclosed and locked when unattended;

9 (2) inspecting a storage facility daily for signs of
10 vandalism and to verify its structural integrity; and

11 (3) establishing and maintaining ongoing inventory
12 control procedures for the ammonium nitrate or ammonium nitrate
13 material.

14 Sec. 63.154. SALE OF AMMONIUM NITRATE. (a) Before
15 completing a sale of ammonium nitrate or ammonium nitrate material,
16 a person that engages in those sales shall:

17 (1) require the person making the purchase to:

18 (A) display a driver's license or other form of
19 identification containing the person's photograph;

20 (B) provide the other personal information
21 required by Subdivision (2); and

22 (C) sign for the purchase; and

23 (2) make a record of the sale, including:

24 (A) the name of the person making the purchase;

25 (B) the date of the purchase;

26 (C) the purchaser's address, date of birth, and
27 phone number;

1 (D) the form of identification the purchaser
2 presented;

3 (E) whether the purchase is being made on behalf
4 of another person; and

5 (F) the amount and brand name of the ammonium
6 nitrate or ammonium nitrate material purchased.

7 (b) The service shall:

8 (1) adopt rules allowing a person to refuse to sell
9 ammonium nitrate or ammonium nitrate material based on the season
10 or the location of the sale; and

11 (2) distribute forms to each person registered under
12 this subchapter to be used to record the information required under
13 Subsection (a).

14 Sec. 63.155. MAINTENANCE OF RECORDS. A person who offers
15 to sell or sells ammonium nitrate or ammonium nitrate material
16 shall maintain each record made under Section 63.154 until at least
17 the second anniversary of the date the record is made and shall make
18 each record only available on request by:

19 (1) the Office of the Texas State Chemist;

20 (2) the Department of Public Safety; or

21 (3) a law enforcement agency of the United States.

22 Sec. 63.156. SUSPENSION OF REGISTRATION. If the service
23 finds that a person registered under this subchapter offered to
24 sell or sold ammonium nitrate or ammonium nitrate material in
25 violation of this subchapter or a rule adopted under this
26 subchapter, the service may:

27 (1) suspend a person's registration for a period of 90

1 days for a first violation; and

2 (2) suspend a person's registration for a period of at
3 least 90 days or revoke the person's registration for a second or
4 subsequent violation.

5 Sec. 63.157. CRIMINAL PENALTY. (a) A person commits an
6 offense if the person:

7 (1) tampers with ammonium nitrate or ammonium nitrate
8 material stored on the property of another; or

9 (2) presents false identification to purchase
10 ammonium nitrate or ammonium nitrate material.

11 (b) A person commits an offense if the person purchases
12 ammonium nitrate or ammonium nitrate material with the intent to
13 manufacture an explosive device.

14 (c) A person commits an offense if the person offers to sell
15 or sells ammonium nitrate or ammonium nitrate material and does not
16 hold a registration issued under this subchapter.

17 (d) An offense under Subsection (a) or (c) is a Class A
18 misdemeanor.

19 (e) An offense under Subsection (b) is a felony of the third
20 degree.

21 (f) If conduct constituting an offense under this section is
22 also an offense under another law, the actor may be prosecuted under
23 this section, the other law, or both.

24 SECTION 2. (a) Section 63.154, Agriculture Code, as added
25 by this Act, applies only to a sale of ammonium nitrate or ammonium
26 nitrate material that is initiated on or after the effective date of
27 this Act. A sale of ammonium nitrate or ammonium nitrate material

1 initiated before the effective date of this Act is covered by the
2 law in effect when the purchase was initiated, and the former law is
3 continued in effect for that purpose.

4 (b) The provisions of Section 63.154, Agriculture Code, as
5 added by this Act, that require the collection of certain customer
6 personal information by a person that sells ammonium nitrate or
7 ammonium nitrate material as required by that section may not be
8 enforced until the Texas Feed and Fertilizer Control Service has
9 adopted rules under that section and distributed the forms required
10 by that section to affected businesses in this state.

11 (c) Section 63.157, Agriculture Code, as added by this Act,
12 applies only to an offense committed on or after the effective date
13 of this Act. For purposes of this subsection, an offense was
14 committed before the effective date of this Act if any element of
15 the offense was committed before the effective date of this Act.

16 SECTION 3. This Act takes effect September 1, 2007.