

1-1 By: Noriega (Senate Sponsor - Carona) H.B. No. 2546
1-2 (In the Senate - Received from the House May 7, 2007;
1-3 May 8, 2007, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 10, 2007, reported
1-5 favorably by the following vote: Yeas 8, Nays 0; May 10, 2007, sent
1-6 to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the sale of ammonium nitrate; creating an offense.
1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-11 SECTION 1. Chapter 63, Agriculture Code, is amended by
1-12 adding Subchapter I to read as follows:
1-13 SUBCHAPTER I. AMMONIUM NITRATE
1-14 Sec. 63.151. DEFINITIONS. In this subchapter:
1-15 (1) "Ammonium nitrate" means ammonium salt of nitric
1-16 acid that contains more than 33 percent nitrogen, one-half of which
1-17 is the 50 ammonium form and one-half of which is the nitrate form.
1-18 (2) "Ammonium nitrate material" means solid
1-19 fertilizer that includes ammonium nitrate as a component, if the
1-20 fertilizer's nitrogen content derived from the ammonium nitrate is
1-21 at least 28 percent of the fertilizer by weight.
1-22 Sec. 63.152. REGISTRATION REQUIRED. (a) A person may not
1-23 offer for sale or sell ammonium nitrate or ammonium nitrate
1-24 material unless the person holds a certificate of registration
1-25 issued by the service under this subchapter.
1-26 (b) An application for a registration must be:
1-27 (1) submitted on a form prescribed by the service; and
1-28 (2) accompanied by a fee in an amount sufficient to
1-29 cover the service's costs to administer this subchapter.
1-30 (c) A person who engages in the sale of ammonium nitrate or
1-31 ammonium nitrate material must display the person's registration in
1-32 conspicuous public view in the person's place of business.
1-33 Sec. 63.153. SECURITY REQUIREMENTS. A person who engages
1-34 in the sale of ammonium nitrate or ammonium nitrate material shall
1-35 take steps to secure the ammonium nitrate or ammonium nitrate
1-36 material stored at the person's facility against vandalism, theft,
1-37 or other unauthorized access, including:
1-38 (1) ensuring that a storage facility is fenced or
1-39 otherwise enclosed and locked when unattended;
1-40 (2) inspecting a storage facility daily for signs of
1-41 vandalism and to verify its structural integrity; and
1-42 (3) establishing and maintaining ongoing inventory
1-43 control procedures for the ammonium nitrate or ammonium nitrate
1-44 material.
1-45 Sec. 63.154. SALE OF AMMONIUM NITRATE. (a) Before
1-46 completing a sale of ammonium nitrate or ammonium nitrate material,
1-47 a person that engages in those sales shall:
1-48 (1) require the person making the purchase to:
1-49 (A) display a driver's license or other form of
1-50 identification containing the person's photograph;
1-51 (B) provide the other personal information
1-52 required by Subdivision (2); and
1-53 (C) sign for the purchase; and
1-54 (2) make a record of the sale, including:
1-55 (A) the name of the person making the purchase;
1-56 (B) the date of the purchase;
1-57 (C) the purchaser's address, date of birth, and
1-58 phone number;
1-59 (D) the form of identification the purchaser
1-60 presented;
1-61 (E) whether the purchase is being made on behalf
1-62 of another person; and
1-63 (F) the amount and brand name of the ammonium
1-64 nitrate or ammonium nitrate material purchased.

(b) The service shall:

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

(2) 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. A person who offers to sell or sells ammonium nitrate or ammonium nitrate material shall maintain each record made under Section 63.154 until at least the second anniversary of the date the record is made and shall make each record only available on request by:

(1) the Office of the Texas State Chemist;

(2) the Department of Public Safety; or

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

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

(1) suspend a person's registration for a period of 90 days for a first violation; and

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

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

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

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

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

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

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

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

(f) 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.

(g) 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) Section 63.154, Agriculture Code, as added by this Act, applies only to a sale of ammonium nitrate or ammonium nitrate material that is initiated on or after the effective date of this Act. A sale of ammonium nitrate or ammonium nitrate material initiated before the effective date of this Act is covered by the law in effect when the purchase was initiated, and the former law is continued in effect for that purpose.

(b) 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 or ammonium nitrate material as required by that section may not be enforced until the Texas Feed and Fertilizer Control Service has adopted rules under that section and distributed the forms required by that section to affected businesses in this state.

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

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

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