

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 402

(Delegate Moe, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Commercial Fertilizer - Ammonium Nitrate - Sale or Distribution Information

This bill requires a distributor of ammonium nitrate to maintain for a least two years a record of all sales and distributions of ammonium nitrate including: (1) the date of sale or delivery of the fertilizer; (2) the name, address, and copy of the driver's license or picture identification of the buyer or recipient; (3) the quantity of fertilizer sold or delivered; and (4) any other information required by the Secretary of Agriculture. These records must be made available to the Secretary of Agriculture upon request. The records must be kept in a manner that protects the identity and location of the distributor and buyer or recipient unless it is determined that the disclosure of this information is necessary to protect the public. Finally, the bill requires the Secretary of Agriculture, in consultation with the Office of Homeland Security, to adopt regulations to carry out the provisions of the bill.

Fiscal Summary

State Effect: None. The bill would not significantly alter the operations of the Maryland Department of Agriculture as it currently inspects fertilizer dealers and is generally aware of the distributors of ammonium nitrate.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Statute does not explicitly provide for, or require, a regulatory mechanism to track and report the sale and distribution of ammonium nitrate.

However, a distributor of commercial fertilizer is required to register each brand and grade of fertilizer and each product name of soil conditioner before distributing it in the State. Distributors also pay an annual registration fee and an annual inspection fee per ton of fertilizer and soil conditioner. Distributors are also required to provide the Secretary of Agriculture with a semiannual written statement of the tonnage of each grade of commercial fertilizer or soil conditioner distributed in the State.

Background: The Fertilizer Institute and the Bureau of Alcohol, Tobacco, Firearms, and Explosives have a program called “America’s Security Begins with You” to encourage and promote vigilance regarding the sale of ammonium nitrate for unlawful purposes.

Legislation introduced in Congress in September of 2004 – Ammonium Nitrate Security Act (H.R. 5140) – would amend the federal criminal code to redefine explosives to include detonable nitrate fertilizers. Under H.R. 5140 it would be unlawful for any person to engage in the business of importing, manufacturing, or dealing in detonable nitrate fertilizers materials without a license. The legislation also requires the U.S. Attorney General to promulgate regulations specifically related to the storage of such fertilizers.

H.R. 5140 also modifies requirements for explosive material licenses and user permits to exempt an applicant from: (1) the fee for a license or user permit for detonable nitrate fertilizers; and (2) the requirement that none of the license or user permit applicant’s employees who will be authorized to possess explosive materials is excluded by law, if the only explosive materials the employee is authorized to possess are detonable nitrate fertilizers.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture; Fertilizer Institute; Bureau of Alcohol, Tobacco, Firearms, and Explosives; Department of Legislative Services

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