

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2113

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10-16-03
Date

2003 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2113

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2113

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-22-03

Tape Number	Side A	Side B	Meter #
1		xxxx	5650
Committee Clerk Signature <i>Lisa VanBeekom</i>			

Minutes: Chairman Mutch called the committee to order. All Senators Present.

Jon Mielke of the Public Service Commission introduced the bill.

Testimony in support of SB 2113

Jon Mielke states that this bill was introduced at the request of the Public Service Commission. It relates to equipment that is used to sell anhydrous ammonia fertilizer. It proposes to make the use of percent gauges illegal in ten years and to require that certification of all other scales and pumps be mandatory beginning next year. The installation of new percent gauges would be prohibited starting January 1, 2004. See attached testimony. (meter no. 5670, side B, Tape 1)

Senator Klein asks if the dealers are the ones who have to pay the \$6000 estimated cost to change the tanks.

Jon Mielke responds that yes, the dealer will be responsible for that cost, however there is a ten year period that they have to pay the full amount.

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Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number 2113

Hearing Date 1-22-03

Senator Mutch asks if the dealer is already selling by weight, would this change affect them?

Jon Mielke states that it would not.

Senator Klein states that of the 450 dealers in the state, only 50 are actually selling by weight, thus financially effecting 400 dealers.

Jon Mielke states that that is correct.

Senator Krebsbach asks if the farmer would still be able to use the gauge for personal knowledge of the amount in the tank.

Jon states that they would be able to because it would not be a commercial transaction.

Senator Klein asks how accurate the scale is.

Jon Mielke said they are accurate.

Kevin Hanson, Chief Inspector with the PSC.

He stated that temperature is only a factor in volume through meters and the meters have automatic temperature compensators to make the temperature automatically 60 degrees.

There is explanation of the use of the scales. (meter 540)

Testimony in opposition or neutral

Gary Knudson of the NDAA states that the NDAA is neutral. He says the bill will have an economic impact dealers. Also he states that the language in the bill is very difficult and suggests that it be simplified.

Senator Krebsbach suggests that there be amendments made.

January 24, 2003, the committee received the proposed amendments from the PSC.- see attached.

No action taken.

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2113

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 02-03-03

Tape Number	Side A	Side B	Meter #
2	xxx		1240
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: Chairman Mutch opened the discussion on SB 2113. All Senators were present.

SB 2113 relates to the testing of anhydrous ammonia weighing and measuring devices, and agriculture commissioner licensing authority of anhydrous ammonia vendors.

There was brief discussion among committee members.

Senator Klein moved a DO NOT PASS. Senator Heitkamp seconded.

Roll Call Vote: 7 yes. 0 no. 0 absent.

Carrier: Senator Klein

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FISCAL NOTE
 Requested by Legislative Council
 01/03/2003

Bill/Resolution No.: SB 2113

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill will eventually make it mandatory for anhydrous ammoni. dealers to sell fertilizer via certified scales or pumps rather than via percent gauges. Compliance will become mandatory in ten years. Most dealers who are already using non-percent gauge scales and pumps are having their equipment certified but this bill proposes to make certification mandatory starting next year. Some of these tests are done by the Public Service Commission and some are being done by private sector service companies.

The PSC is not seeking resources to expand the level of service that is currently being provided. Future Legislatures may be asked to decide whether or not related services should be expanded.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

At the present time, some certification testing is done by the Public Service Commission and some is done by private sector testing companies. It is not expected that enactment of this legislation will have any significant impact on the number of tests being conducted, at least for the next several years. Therefore, no revenue changes are anticipated.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

None.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

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None.

Name:	Jon Mielke	Agency:	Public Service Commission
Phone Number:	328-4082	Date Prepared:	01/08/2003

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10-16-03

Date

REPORT OF STANDING COMMITTEE (410)
February 3, 2003 1:24 p.m.

Module No: SR-20-1532
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2113: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends
DO NOT PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2113 was
placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-20-1532

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2003 TESTIMONY

SB 2113

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10-16-03
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S.B. 2113

Presented by: Jon Mielke, Executive Secretary
Public Service Commission

Before: Senate Committee on
Industry, Business, & Labor
Duane Mutch, Chairman

Date: January 22, 2003

TESTIMONY

Mr. Chairman and committee members, my name is Jon Mielke. I am the Public Service Commission's executive secretary. I also serve as the director of the Commission's Licensing Division.

Also with me this morning is Al Moch, the director of the Commission's Testing & Safety Division. We will be happy to respond to any questions that you might have.

This bill was introduced at the request of the Commission. It relates to equipment that is used to sell anhydrous ammonia fertilizer. It proposes to make the use of percent gauges illegal in ten years and to require that certification of all other scales and pumps be mandatory beginning next year. The installation of new percent gauges would be prohibited starting January 1, 2004.

The Commission estimates that there are currently between 400 and 450 anhydrous dealers in North Dakota. About 50 of these dealers sell their product via scales or pumps, most of which are certified by either the Commission or a private sector service provider.

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The remaining 350 to 400 dealers use percent gauges to dispense fertilizer. These gauges are typically located on the farmer's mobile tank. Prior to filling, these gauges register the amount of anhydrous that is still in the farmer's tank. As fertilizer is transferred into the farmer's tank, the gauge rises.

Unfortunately, percent gauges are highly inaccurate because they are only designed to give an approximation of how much product is in the tank. Inaccuracies result for a variety of reasons.

One of the problems with percent gauges stems from the fact that they register volumes from 5% to 100% - they do not register anything below 5%. The gauges therefore have a built-in margin of error of up to 5%.

It is also important to note that anhydrous is sold on a weight basis and percent gauges measure volume. It is, therefore, necessary to convert the volume dispensed to weight. This process is frustrated by the fact that the weight per volume varies depending on temperature.

The commodity's temperature is extremely important - accurate volumes cannot be measured without knowing it.

Farmer tanks typically do not have a temperature well to measure the temperature of the dispensed product, so temperatures are usually estimated rather than actual. If the operator does not adjust his conversion factor as temperatures change or if the conversion factor is inappropriately used, farmers may receive far less commodity than they are paying for.

A third problem with percent gauges is the fact that the devices are simply a gauge with a needle indicator. The needle's

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true location relative to the numbers on the gauge can be misjudged depending on the location of the gauge relative to the operator's angle of view. Whether the operator is kneeling or standing or wearing bifocals will influence how the gauge is read. These devices simply are not accurate.

The Commission studied industry practices related to percent gauges in 2001. We found that about 60% of time, customers received less product than they paid for. During the other 40% of the time, vendors were dispensing more product than they were being paid for. The existing system is unfair to both farmers and fertilizer dealers.

The National Institute of Standards and Technology does not allow the use of percent gauges as a tool in the sale of anhydrous ammonia. Similarly, this bill would make it illegal to use percent gauges in North Dakota. Given the impact that this change would have on existing dealers, the use of these devices would be gradually phased out over the next ten years.

This phasing out process would begin January 1, 2004, since the bill requires that existing dealers who currently use certified scales or pumps must continue that use them; they cannot adjust their operations to begin using less accurate percent gauges.

Similarly, any new dealers that commence operations after January 1, 2004, or any existing dealers who modify their systems, must use certified scales and pumps. We estimate that a certifiable metered dispenser will cost about \$6,000 to purchase and install.

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Section 2 of this bill proposes to amend Section 64-04-02 of the Century Code to make it apply to not only liquefied petroleum gas but also to anhydrous ammonia. The testing and certification of existing anhydrous scales and pumps is currently done under the Commission's broad jurisdictional powers. The primary reason for this change is to include language that would mandate that related anhydrous ammonia equipment could not be certified for use unless it is operated by a vendor that is licensed as a dealer by the agriculture commissioner as required by N.D.C.C. 19-20.2-02 and 03.

Section 3 of the bill proposes a housekeeping change that is related to the changes proposed by Section 2. N.D.C.C. 64-04-03 sets forth specifications that apply strictly to LPG meters. Given the other changes proposed by this bill, it is necessary to amend this section to clarify that these specifications still only apply to LPG meters and not to those used by anhydrous ammonia dealers.

Passage of this bill would also have a secondary benefit beyond anything that has to do with fair commercial transactions. As we have noted, passage of this bill will lead to the use of equipment that will make it possible for anhydrous dealers to accurately track their inventories of anhydrous.

As the committee is aware, anhydrous is a primary ingredient in methamphetamine. Because percent gauges are so notoriously inaccurate, an anhydrous dealer may never know if someone has gained access to his or her tank and taken some quantity of anhydrous. Requiring the use of certified meters or

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scales would allow anhydrous dealers to know much more precisely if their tanks have been used for illegal purposes.

Mr. Chairman, that concludes our testimony on this bill. Mr. Moch and I would be happy to respond to any questions that you or your committee may have.

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Public Service Commission
State of North Dakota

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MEMORANDUM

**To: Senate Committee on Industry, Business and Labor
Honorable Duane Mutch, Chairman**

**From: Illona Jeffcoat-Sacco
Director, Public Utilities Division**

Re: SB 2113 – Proposed Amendment

Date: 24 January 2003

Attached is the Public Service Commission's Proposed Amendment to Senate Bill No. 2113, as you requested from Jon Mielke, during testimony on January 22, 2003. Jon Mielke is out of the office until February 3, 2003. If you have any questions or need additional information please call me at 8-2407 or Al Moch at 8-2413.

Thank you.

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Prepared by Public Service Commission

PROPOSED AMENDMENT TO SENATE BILL NO. 2113

Page 1, line 9, remove "After January 1, 2013, it is unlawful", insert:

"Anhydrous ammonia gas may only be sold as provided in this section.

1. Anhydrous ammonia gas may be sold or offered for sale only in liquid form, either by avoirdupois or metric units of weight, using a scale or meter certified under chapter 64-02.
2. A vendor using a percent gauge to sell or offer to sell anhydrous ammonia gas on or after August 1, 2003, may continue to use a percent gauge until January 1, 2013.
3. A vendor using a percent gauge on or after August 1, 2003, who modifies the capacity or piping of an existing anhydrous ammonia storage facility after January 1, 2004, must comply with subsection 1.
4. A vendor using an uncertified scale or meter to sell or offer to sell anhydrous ammonia gas on or after August 1, 2003, must comply with subsection 1 by January 1, 2004."

Page 1, remove lines 10 through 24

Page 2, remove lines 1 through 4

Re-number accordingly

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