

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1302
(Representatives Schreiber-Beck, Beltz, Fisher, Kiefert)

AN ACT to amend and reenact sections 4.1-37-03 and 4.1-37-04 of the North Dakota Century Code, relating to anhydrous ammonia facility applications.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-37-03 of the North Dakota Century Code is amended and reenacted as follows:

4.1-37-03. License required - Anhydrous ammonia facilities and mobile storage container.

1. The owner or operator of an anhydrous ammonia storage facility or a mobile storage container shall apply to the agriculture commissioner ~~and to the board of county commissioners~~ for a license to site and operate the facility or mobile storage container. Neither an anhydrous ammonia storage facility nor mobile storage container may be operated without a license issued by the agriculture commissioner ~~and the board of county commissioners of the county in which the facility is located.~~
2. Any permanent anhydrous ammonia storage facility constructed before July 1, 1985, is exempt from the siting requirements of this chapter and may receive a license under this chapter regardless of noncompliance with the siting requirements.
3. The commissioner ~~or the board~~ may deny a license for failure:
 - a. Failure to remit the proper fee ~~for failure~~;
 - b. Failure to comply with the siting requirements of this chapter and rules adopted under this chapter if constructed after June 30, 1985, ~~or for failure to comply with local siting requirements. The agriculture commissioner also may deny a license if the~~; or
 - c. The facility does not failing to meet the initial inspection standards required by this chapter and ~~by any rules adopted under this chapter.~~
4. To obtain a license, an applicant shall submit with the application ~~two sets of~~ drawings or photographs showing, and ~~two a~~ signed ~~affidavits~~ affidavit stating, the facility or mobile downloading site has been measured and meets the siting requirements. The drawings or photographs must show the proposed location of the tank and the surroundings in all directions. ~~A set of drawings or photographs must be provided to the agriculture commissioner and a set must be provided to the board of county commissioners.~~
5. An applicant for a mobile storage container license also shall submit a certification from the United States department of transportation.
6. The agriculture commissioner shall provide the board of county commissioners, of the county in which the facility is located, a written notification of intent to issue a storage facility operator's license for a new proposed facility. The written notification must include copies of the submitted application materials. Upon receipt of the notification, the county has forty-five days to request an allowance for a local zoning review. If a local zoning review is requested, the agriculture commissioner shall allow the county sixty days to complete the review and give written approval. If the county fails to respond within the specified time frame the agriculture commissioner may issue a license. If the county applies additional zoning requirements, the

agriculture commissioner may require compliance with local ordinance before issuing a license.

SECTION 2. AMENDMENT. Section 4.1-37-04 of the North Dakota Century Code is amended and reenacted as follows:

4.1-37-04. State license fee.

The agriculture commissioner shall charge a one-time twenty-five dollar fee for a private anhydrous ammonia storage facility or a mobile storage container license, and a one-time one hundred dollar fee for a retail anhydrous ammonia storage facility or a mobile storage container license. Expansion of an existing anhydrous ammonia storage facility does not require reapplication for licensing, but all siting requirements must be met. The license is valid indefinitely but may not be transferred. A new license is required when an anhydrous ammonia storage facility changes ownership. If a storage facility changes ownership, the agriculture commissioner shall provide a written notification to the county when the commissioner issues a license to the new owner.

Dennis E. Johnson
Speaker of the House

Tammy Miller
President of the Senate

Buell J. Reick
Chief Clerk of the House

Sharon Meyer
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1302.

House Vote: Yeas 91 Nays 0 Absent 3

Senate Vote: Yeas 45 Nays 2 Absent 0

Buell J. Reick
Chief Clerk of the House

Received by the Governor at 9:43 AM on March 15, 2023.

Approved at 11:00 AM on March 20, 2023.

Doug Burgum
Governor

Filed in this office this 21st day of March, 2023,
at 8:43 o'clock A. M.

Michael Howe
Secretary of State