

Chair's prior announcement, further proceedings on this question will be postponed.

## SECURE HANDLING OF AMMONIUM NITRATE ACT OF 2007

Mr. THOMPSON of Mississippi. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1680) to authorize the Secretary of Homeland Security to regulate the sale of ammonium nitrate to prevent and deter the acquisition of ammonium nitrate by terrorists, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1680

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Secure Handling of Ammonium Nitrate Act of 2007".

### SEC. 2. SECURE HANDLING OF AMMONIUM NITRATE.

(a) IN GENERAL.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by adding at the end the following new subtitle:

#### "Subtitle J—Secure Handling of Ammonium Nitrate"

##### "SEC. 899A. DEFINITIONS.

"In this subtitle, the following definitions apply:

"(1) The term 'ammonium nitrate' means—

"(A) solid ammonium nitrate that is chiefly the ammonium salt of nitric acid and contains not less than 33 percent nitrogen by weight; and

"(B) any mixture containing a percentage of ammonium nitrate that is equal to or greater than the percentage determined by the Secretary under section 899B(b).

"(2) The term 'ammonium nitrate facility' means any entity that produces, sells, or otherwise transfers ownership of, or provides application services for, ammonium nitrate.

"(3) The term 'ammonium nitrate purchaser' means any person who buys and takes possession of ammonium nitrate from an ammonium nitrate facility.

##### "SEC. 899B. REGULATION OF THE SALE AND TRANSFER OF AMMONIUM NITRATE.

"(a) IN GENERAL.—The Secretary shall regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility in accordance with this subtitle to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.

"(b) AMMONIUM NITRATE MIXTURES.—The Secretary, in consultation with the heads of appropriate Federal departments and agencies, including the Secretary of Agriculture, shall, through notice and comment and by no later than 90 days after the date of the enactment of this subtitle, establish a threshold percentage for ammonium nitrate in a substance. If a substance contains a percentage of ammonium nitrate that is equal to or greater than the percentage established by the Secretary, the substance shall be treated as ammonium nitrate for the purposes of this subtitle.

"(c) REGISTRATION OF OWNERS OF AMMONIUM NITRATE FACILITIES.—

"(1) REGISTRATION.—The Secretary shall establish a process by which—

"(A) any person who is the owner of an ammonium nitrate facility is required to register with the Department; and

"(B) upon such registration, such person is issued a registration number for purposes of this subtitle.

"(2) REGISTRATION INFORMATION.—The Secretary shall require that each applicant for reg-

istration as the owner of an ammonium nitrate facility must submit to the Secretary—

"(A) the name, address, and telephone number of each ammonium nitrate facility owned by the applicant;

"(B) the name of the person designated by the owner of the ammonium nitrate facility as the point of contact of such facility, for purposes of this subtitle;

"(C) for each such facility, the amount of ammonium nitrate that is sold or transferred during each year; and

"(D) such other information as the Secretary may determine is appropriate.

"(d) REGISTRATION OF AMMONIUM NITRATE PURCHASERS.—

"(1) REGISTRATION.—The Secretary shall establish a process by which—

"(A) any person who seeks to be an ammonium nitrate purchaser is required to register with the Department; and

"(B) upon such registration, such person is issued a registration number for purposes of this subtitle.

"(2) REGISTRATION INFORMATION.—The Secretary shall require that each applicant for registration under this subsection as a prospective ammonium nitrate purchaser must submit to the Secretary the name, address, and telephone number of the applicant and the intended use of ammonium nitrate to be purchased by the applicant.

"(e) RECORDS.—

"(1) MAINTENANCE OF RECORDS.—The Secretary shall require the owner of an ammonium nitrate facility engaged in selling or transferring ammonium nitrate to—

"(A) maintain a record of each sale or transfer of ammonium nitrate, during the two-year period beginning on the date of such sale or transfer; and

"(B) include in such record the information described in paragraph (2).

"(2) SPECIFIC INFORMATION REQUIRED.—For each such sale or transfer, the Secretary shall require the owner of an ammonium nitrate facility to—

"(A) record the name, address, telephone number, and registration number issued under subsection (c) or (d) of each person that takes possession of ammonium nitrate from the owner of an ammonium nitrate facility, in a manner prescribed by the Secretary;

"(B) if applicable, record the name, address, and telephone number of each individual who takes possession of the ammonium nitrate on behalf of the person referred to in subparagraph (A), at the point of sale;

"(C) record the date and quantity of ammonium nitrate sold or transferred; and

"(D) verify the identity of the persons referred to in subparagraphs (A) and (B), as applicable, in accordance with a procedure established by the Secretary.

"(3) PROTECTION OF INFORMATION.—In maintaining records in accordance with paragraph (1), the owner of an ammonium nitrate facility shall take reasonable actions to ensure the protection of the information included in such records.

"(f) EXEMPTION FOR EXPLOSIVE PURPOSES.—The Secretary may exempt from this subtitle a person producing, selling, or purchasing ammonium nitrate exclusively for use as an explosive material under a license issued under chapter 40 of title 18, United States Code.

"(g) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Agriculture, States, and appropriate private sector entities, to ensure that the access of agricultural producers to ammonium nitrate is not unduly burdened.

"(h) DATA CONFIDENTIALITY.—

"(1) IN GENERAL.—Notwithstanding section 552 of title 5, United States Code, or the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 272), and except as provided in paragraph (2), the Secretary may not disclose to any person any information obtained under this subtitle.

"(2) EXCEPTION.—The Secretary may disclose any information obtained by the Secretary under this subtitle to an officer or employee of the United States, or a person that has entered into a contract with the United States, who has a need to know the information to perform the duties of the officer, employee, or person, or to a State agency pursuant to section 899D, under appropriate arrangements to ensure the protection of the information.

"(i) REGISTRATION PROCEDURES AND CHECK OF TERRORIST WATCH LIST.—

"(1) REGISTRATION PROCEDURES.—

"(A) GENERALLY.—The Secretary shall establish procedures to efficiently receive applications for registration numbers under this subtitle, conduct the checks required under paragraph (2), and promptly issue or deny a registration number.

"(B) INITIAL SIX-MONTH REGISTRATION PERIOD.—The Secretary shall take steps to maximize the number of registration applications that are submitted and processed during the six-month period provided for in section 899F(e).

"(2) CHECK OF TERRORIST WATCH LIST.—

"(A) CHECK REQUIRED.—The Secretary shall conduct a check of appropriate identifying information of any person seeking to register with the Department under subsection (c) or (d) against identifying information that appears on the terrorist watch list.

"(B) AUTHORITY TO DENY REGISTRATION NUMBER.—If the person's identifying information appears on the terrorist watch list and the Secretary determines such person may pose a threat to national security, the Secretary may deny issuance of a registration number under this subtitle.

"(3) EXPEDITED REVIEW OF APPLICATIONS.—

"(A) IN GENERAL.—Following the six-month period provided for in section 899F(e), the Secretary shall, to the extent practicable, issue or deny registration numbers under this subtitle not later than 72 hours after the time the Secretary receives a complete registration application, unless the Secretary determines, in the interest of national security, that additional time is necessary to review an application.

"(B) NOTICE OF APPLICATION STATUS.—In all cases, the Secretary shall notify persons of the status of their application not later than 72 hours after the time the Secretary receives a complete registration application.

"(4) EXPEDITED APPEALS PROCESS.—

"(A) REQUIREMENT.—

"(i) APPEALS PROCESS.—The Secretary shall establish an expedited appeals process for persons denied a registration number under this subtitle.

"(ii) TIME PERIOD FOR RESOLUTION.—The Secretary shall, to the extent practicable, resolve appeals not later than 72 hours after receiving a complete request for appeal unless the Secretary determines, in the interest of national security, that additional time is necessary to resolve an appeal.

"(B) CONSULTATION.—The Secretary, in developing the appeals process under subparagraph (A), shall consult with appropriate stakeholders.

"(C) GUIDANCE.—The Secretary shall provide guidance regarding the procedures and information required for an appeal under subparagraph (A) to persons denied registration numbers under this subtitle.

"(5) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—

"(A) IN GENERAL.—Information obtained by the Secretary under this section may not be made available to the public.

"(B) USE OF CERTAIN INFORMATION.—Any information constituting grounds for denial of a registration number under this section shall be maintained confidentially by the Secretary and may be used only for making determinations under this section. Notwithstanding any other provision of this subtitle, the Secretary may share any such information with Federal, State, local, and tribal law enforcement agencies, as appropriate.

“(6) REGISTRATION INFORMATION.—

“(A) AUTHORITY TO REQUIRE INFORMATION.—The Secretary may require a person applying for a registration number under this subtitle to submit such information as may be necessary to carry out the requirements of this section.

“(B) REQUIREMENT TO UPDATE INFORMATION.—The Secretary may require persons issued a registration under this subtitle to update registration information submitted to the Secretary under this subtitle, as appropriate.

“(7) RE-CHECKS AGAINST TERRORIST WATCH LIST.—

“(A) RE-CHECKS.—The Secretary shall, as appropriate, re-check persons provided a registration number pursuant to this subtitle against the terrorist watch list, and may revoke such registration number if the Secretary determines such person may pose a threat to national security.

“(B) NOTICE OF REVOCATION.—The Secretary shall, as appropriate, provide prior notice to a person whose registration number is revoked under this section and such person shall have an opportunity to appeal, as provided in paragraph (4).

#### “SEC. 899C. INSPECTION AND AUDITING OF RECORDS.

“The Secretary shall establish a process for the periodic inspection and auditing of the records maintained by owners of ammonium nitrate facilities for the purpose of monitoring compliance with such section or for the purpose of deterring or preventing the misappropriation or use of ammonium nitrate in an act of terrorism.

#### “SEC. 899D. ADMINISTRATIVE PROVISIONS.

“(a) COOPERATIVE AGREEMENTS.—The Secretary—

“(1) may enter into a cooperative agreement with the Secretary of Agriculture, or the head of any State department of agriculture or its designee involved in agricultural regulation, in consultation with the State agency responsible for homeland security, to carry out the provisions of this subtitle; and

“(2) wherever possible, shall seek to cooperate with State agencies or their designees that oversee ammonium nitrate facility operations when seeking cooperative agreements to implement the registration and enforcement provisions of this subtitle.

“(b) DELEGATION.—

“(1) AUTHORITY.—The Secretary may delegate to a State the authority to assist the Secretary in the administration and enforcement of this subtitle.

“(2) DELEGATION REQUIRED.—At the request of a Governor of a State, the Secretary shall delegate to the State the authority to carry out functions under sections 899B and 899C, if the Secretary determines that the State is capable of satisfactorily carrying out such functions.

“(3) FUNDING.—Subject to the availability of appropriations, if the Secretary enters into an agreement with a State under this subsection to delegate functions to the State, the Secretary shall provide to the State sufficient funds to carry out the delegated functions.

“(c) PROVISION OF GUIDANCE AND NOTIFICATION MATERIALS TO AMMONIUM NITRATE FACILITIES.—

“(1) GUIDANCE.—The Secretary shall make available to each owner of an ammonium nitrate facility registered under section 899B(c)(1) guidance on—

“(A) the identification of suspicious ammonium nitrate purchases or transfers or attempted purchases or transfers;

“(B) the appropriate course of action to be taken by the ammonium nitrate facility owner with respect to such a purchase or transfer or attempted purchase or transfer, including—

“(i) exercising the right of the owner of the ammonium nitrate facility to decline sale of ammonium nitrate; and

“(ii) notifying appropriate law enforcement entities; and

“(C) any such additional subjects as the Secretary determines are appropriate to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.

“(2) USE OF MATERIALS AND PROGRAMS.—In providing guidance under this subsection, the Secretary shall, to the extent practicable, leverage any relevant materials and programs.

“(3) NOTIFICATION MATERIALS.—

“(A) IN GENERAL.—The Secretary shall make available materials suitable for posting at ammonium nitrate facilities where ammonium nitrate is sold.

“(B) DESIGN OF MATERIALS.—Such materials shall be designed to notify prospective ammonium nitrate purchasers of—

“(i) the record-keeping requirements under section 899B; and

“(ii) the penalties for violating such requirements.

#### “SEC. 899E. THEFT REPORTING REQUIREMENT.

“Any person who is required to comply with section 899B(e) who has knowledge of the theft or unexplained loss of ammonium nitrate shall report such theft or loss to the appropriate Federal law enforcement authorities within one calendar day of the date on which the person becomes aware of such theft or loss. Upon receipt of such report, the relevant Federal authorities shall inform State, local, and tribal law enforcement entities as appropriate.

#### “SEC. 899F. PROHIBITIONS AND PENALTY.

“(a) PROHIBITIONS.—

“(1) TAKING POSSESSION.—No person shall take possession of ammonium nitrate from an ammonium nitrate facility unless such person is registered under subsection (c) or (d) of section 899B, or is an agent of a person registered under subsection (c) or (d) of that section.

“(2) TRANSFERRING POSSESSION.—An owner of an ammonium nitrate facility shall not transfer possession of ammonium nitrate from the ammonium nitrate facility to any person who is not registered under subsection (c) or (d) of section 899B, unless such person is an agent of a person registered under subsection (c) or (d) of that section.

“(3) OTHER PROHIBITIONS.—No person shall—

“(A) buy and take possession of ammonium nitrate without a registration number required under subsection (c) or (d) of section 899B;

“(B) own or operate an ammonium nitrate facility without a registration number required under section 899B(c); or

“(C) fail to comply with any requirement or violate any other prohibition under this subtitle.

“(b) PROHIBITIONS.—No person shall—

“(1) buy and take possession of ammonium nitrate without a registration number required under subsection (c) or (d) of section 899B;

“(2) own or operate an ammonium nitrate facility without a registration number required under section 899B(c); or

“(3) fail to comply with any requirement or violate any other prohibition under this subtitle.

“(c) CIVIL PENALTY.—A person that violates this subtitle may be assessed a civil penalty by the Secretary of not more than \$50,000 per violation.

“(d) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, the Secretary shall consider—

“(1) the nature and circumstances of the violation;

“(2) with respect to the person who commits the violation, any history of prior violations, the ability to pay the penalty, and any effect the penalty is likely to have on the ability of such person to do business; and

“(3) any other matter that the Secretary determines that justice requires.

“(e) NOTICE AND OPPORTUNITY FOR A HEARING.—No civil penalty may be assessed under this subtitle unless the person liable for the penalty has been given notice and an opportunity for a hearing on the violation for which the penalty is to be assessed in the county, parish, or incorporated city of residence of that person.

“(f) DELAY IN APPLICATION OF PROHIBITION.—Paragraphs (1) and (2) of subsection (a) shall apply beginning 6 months after the issuance by the Secretary of a final rule implementing this subtitle.

#### “SEC. 899G. PROTECTION FROM CIVIL LIABILITY.

“(a) IN GENERAL.—Notwithstanding any other provision of law, an owner of an ammonium nitrate facility who in good faith refuses to sell or transfer ammonium nitrate to any person, or who in good faith discloses to the Department or to appropriate law enforcement authorities an actual or attempted purchase or transfer, based upon a reasonable belief that the person seeking purchase or transfer of ammonium nitrate may use the ammonium nitrate to create an explosive device to be employed in an act of terrorism (as defined in section 3077 of title 18, United States Code), or to use ammonium nitrate for any other unlawful purpose, shall be immune from civil liability arising from that refusal to sell ammonium nitrate or from making that disclosure.

“(b) LIMITATION.—Subsection (a) shall not be construed to apply with respect to any refusal to sell or disclosure—

“(1) that violates—

“(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq); or

“(B) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq); or

“(2) made on the basis that the person seeking purchase or transfer of ammonium nitrate is a veteran or member of the armed forces of the United States.

#### “SEC. 899H. PREEMPTION OF OTHER LAWS.

“(a) OTHER FEDERAL REGULATIONS.—Except as provided in section 899G, nothing in this subtitle affects any regulation issued by any agency other than an agency of the Department.

“(b) STATE LAW.—Subject to section 899G, this subtitle preempts the laws of any State to the extent that such laws are inconsistent with this subtitle, except that this subtitle shall not preempt any State law that provides additional protection against the acquisition of ammonium nitrate by terrorists or the use of ammonium nitrate in explosives in acts of terrorism or for other illicit purposes, as determined by the Secretary.

#### “SEC. 899I. DEADLINES FOR REGULATIONS.

“The Secretary—

“(1) shall issue a proposed rule implementing this subtitle within six months after the date of the enactment of this subtitle; and

“(2) issue a final rule implementing this subtitle within one year after such date of enactment.

#### “SEC. 899J. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subtitle for fiscal years 2007 through 2011.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title VIII the following new items:

“Subtitle J—Secure Handling of Ammonium Nitrate

“Sec. 899A. Definitions.

“Sec. 899B. Regulation of the sale and transfer of ammonium nitrate.

“Sec. 899C. Inspection and auditing of records.

“Sec. 899D. Administrative provisions.

“Sec. 899E. Theft reporting requirement.

“Sec. 899F. Prohibitions and penalty.

“Sec. 899G. Protection from civil liability.

“Sec. 899H. Preemption of other laws.

“Sec. 899I. Deadlines for regulations.

“Sec. 899J. Authorization of appropriations.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from California (Mr. DANIEL E. LUNGREN) each will control 20 minutes.

The Chair recognizes the gentleman from Mississippi.

GENERAL LEAVE

Mr. THOMPSON of Mississippi. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on this bill and include therein any extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. THOMPSON of Mississippi. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of H.R. 1680, the Secure Handling of Ammonium Nitrate Act of 2007.

The committee has worked vigilantly to get this bill to where it is today. In fact, we've been working on this bill in a bipartisan way for two Congresses now.

We all know the devastating impact that fertilizer bombs can have. Over 12 years ago, domestic terrorists used an ammonium nitrate-based bomb to blow up the Murrah Federal Building in Oklahoma City. That blast had a force equal to that of 4,000 pounds of TNT. It killed 168 people.

Since that time, ammonium nitrate-based bombs have repeatedly been used throughout the world. In 2002, a group linked to al Qaeda detonated a bomb outside a night club in Bali, Indonesia, killing 202 people. In 2003, an al Qaeda cell in Istanbul killed 57 people in two separate explosions. Last year, Canadian authorities arrested 17 people in Toronto for plotting to attack targets with ammonium nitrate-based bombs.

This threat is real, Madam Speaker. To do nothing about it is unacceptable. However, I have always believed that we must act in a thoughtful manner that recognizes the importance of ammonium nitrate in our agricultural sector.

I am proud of the work that the Committee on Homeland Security has done. The committee has worked hard to ensure that H.R. 1680 strikes the right balance between ensuring access to ammonium nitrate for farmers and making it difficult for terrorists to obtain.

Specifically, this bill directs DHS, in consultation with State agricultural authorities, to create a registry of facilities that manufacture and sell ammonium nitrate. H.R. 1680 requires the sales of ammonium nitrate to be limited to purchasers who register in advance and that the name, address, telephone number and registration number of the purchaser be recorded.

The tracking and registration functions are not new phenomena. The agriculture and fertilizer industry and some States have been engaged in voluntary programs to monitor sale of ammonium nitrate for some time. In fact, Madam Speaker, a handful of States, including New York, California, New Jersey, Nevada, Oklahoma, Missouri, South Carolina, Maryland,

Michigan, and Iowa have enacted laws regulating the sale of ammonium nitrate-based fertilizer.

The time has come to put Federal rules in place to ensure that terrorists cannot cross State lines to buy ammonium nitrate without being registered or checked against the terrorist watch list.

Madam Speaker, I am proud to say that our committee has worked collaboratively with industry stakeholders in the agriculture industry on this legislation. We consulted State and local farm bureaus, fertilizer manufacturers and retail outlets, and mining and explosive makers. It is reassuring to know that we can all come together to come up with a reasonable approach to regulating ammonium nitrate.

I have somewhat of a vested interest in getting this right, Madam Speaker. There is an ammonium nitrate plant in my district. The Terra Yazoo City plant has been in operation for more than 50 years. The Terra plant is a major economic engine in our local economy, providing good-paying jobs and stable jobs for the community.

The Terra facility and many others like it across the country are committed to safeguarding ammonium nitrate, but they cannot do it alone. The Federal Government needs to show some leadership here. That is why H.R. 1680 directs DHS to take the lead in coming up with an approach to registering ammonium nitrate purchases.

I am pleased that through this bipartisan effort we've been able to come up with an approach to tighten control of ammonium nitrate, yet allow it to remain accessible for crop nutrition purposes.

This legislation is another of our ongoing homeland security efforts at preventing a future terrorist attack on our Nation.

I would like to thank subcommittee Chairman LANGEVIN, Ranking Member KING, and others, for their leadership on this critical issue. Each has put their mark on the bill through the committee process. Their efforts, without question, made this a better bill.

I urge my colleagues to join me in supporting H.R. 1680.

Madam Speaker, I reserve the balance of my time.

Mr. DANIEL E. LUNGREN of California. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, a vote on this legislation is long overdue. The need to regulate ammonium nitrate has been evident since the bombing of the Alfred Murrah building in 1995. This legislation is needed to protect Americans from those who seek to utilize this dangerous chemical in terrorist attacks. But as the chairman said, we must balance this threat to our Nation's security with the need for ammonium nitrate to remain accessible because it is a highly effective agricultural fertilizer and has other legitimate uses in industries like mining.

The legislation before us creates a system of regulation so that ammonium nitrate is available for legitimate use, but does not fall into terrorist hands; a system that keeps us safe, but does not burden farmers. I believe this legislation strikes that balance.

We originally took up this legislation in the 109th Congress and we approved it in the Committee on Homeland Security. But the 109th Congress ended before this legislation could be considered on the House floor, so I'm happy to see this legislation before us again in the 110th Congress. And I thank the chairman for bringing it to us at this time.

H.R. 1680 is a bipartisan bill. We worked with our colleagues across the aisle to strengthen the prevention of terrorism component of this bill by insisting on a registration requirement for those who purchase ammonium nitrate rather than just those who sell it.

We were happy to see the committee accept three Republican amendments to this bill. I introduced an amendment which requires the Department of Homeland Security to check the name of applicants for ammonium nitrate registration numbers against terrorist watch lists. This will prevent suspected terrorists from acquiring this deadly material and will alert law enforcement authorities of potential plots under way.

Other Republican amendments provide civil liability protection for the sellers of ammonium nitrate in the event they refuse to sell ammonium nitrate to suspect purchasers or make reports to law enforcement about suspect purchasers. No seller of ammonium nitrate should be afraid to deny sale of this dangerous material out of fear of legal action.

Ammonium nitrate is a legitimate chemical used to fertilize our crops; but its availability, accessibility, ease of bomb-making, cost, and history of prior use make it an obvious material for large explosives that could be employed in terrorist attacks.

We need only to look back in recent history to understand that ammonium nitrate can be the terrorist tool of choice: the al Qaeda bombings of U.S. embassies in Kenya and Tanzania in 1998; in November 2003 scores of individuals killed when terrorists detonated ammonium nitrate bombs in Istanbul; in March 2005 British anti-terror police seized a half ton of ammonium nitrate from suspects accused of being affiliated with Islamic terrorists; later that month, over 3,000 pounds of ammonium nitrate was stolen by armed terrorists in Thailand; the arrests last summer, June 2006, of 17 people in Canada on charges that they were planning on using ammonium nitrate to make an extremely powerful bomb.

□ 1200

Al Qaeda has an Internet hit on how to make ammonium nitrate bombs. An ABC News team last fall demonstrated

how easy it might be to acquire ammonium nitrate. With just \$300, ABC interns managed to purchase 1,000 pounds of ammonium nitrate in 2 days in farm supply stores from North Carolina to the District of Columbia. No one questioned why they needed ammonium nitrate. No one asked for their identification. That ammonium nitrate was stored in a public storage facility just a few miles from where we stand today.

These events have demonstrated vulnerabilities that put us in the crosshairs of terrorist sights right where we live, work and travel. Here in the U.S., a few of our States, including California, have already begun to implement laws to secure the handling of ammonium nitrate. The chemical and farming industry developed important protections in their respective industries to keep this substance out of the hands of terrorists.

These are important efforts, but it creates a patchwork where all a terrorist has to do to build a ammonium nitrate bomb is to travel from New York to Pennsylvania to acquire it. Congress needs to step in to set a national policy. This legislation does just that. It sets a floor across the Nation so that ammonium nitrate is used as intended, that is, to grow our Nation's crops, not to create the next Oklahoma City bombing. We believe fair and proportionate regulations will allow ammonium nitrate to continue to be available to legitimate users who are not a security concern while at the same time preventing and deterring its acquisition by those who wish to do us harm.

By supporting H.R. 1680, we will take another step in upholding our responsibility to protect the lives and livelihood of our American citizenry.

And with that, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. PERLMUTTER), a distinguished member of our committee.

Mr. PERLMUTTER. Thank you, Mr. Chairman.

Mr. Speaker, I rise today in strong support of House bill 1680, the Secure Handling of Ammonium Nitrate Act. On many of the 728 farms in my district and those throughout the country, hardworking farmers rely on ammonium nitrate as a trusted fertilizer that can produce more nutrients than natural fertilizers, but by its very chemical nature, ammonium nitrate is also a substance that, if mixed with certain fuels, can be used as a powerful explosive. The Oklahoma City bombing of 1995 is perhaps the most notable and frightening example of ammonium nitrate's potential. Therefore, we must do all we can to prevent criminals and murderers from obtaining this legal substance while maintaining easy access for our Nation's farmers.

The Secure Handling of Ammonium Nitrate Act creates a national registry to monitor the purchase and sale of

ammonium nitrate. It further matches the names of applying farmers against the terrorist screening database so we can keep ammonium nitrate out of terrorists' hands. In particular, I am pleased to have worked with Mr. LUNGREN and with others throughout the committee to craft an expedited appeals process for farmers who have been adversely affected by the name check process. The Department of Homeland Security must either approve or deny an application within 3 days. If someone is denied a registration number under the program, they may appeal and get a resolution from the government within 3 days. The provision ensures that farmers who are misidentified do not jeopardize their livelihoods due to a governmental mistake. This is a commonsense bill that guarantees that ammonium nitrate in our country is being used for legitimate agricultural purposes and not for harm.

Mr. Speaker, I urge my colleagues to adopt this bill.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. DENT), a member of the Homeland Security Committee.

Mr. DENT. Mr. Speaker, if there is an example of how legislation should be crafted, the Secure Handling of Ammonium Nitrate Act of 2007 is it. This is a great bill that will help to improve our homeland security. And if it should succeed on the floor today, its passage will be a tribute to the spirit of bipartisanship that is alive and well in the Homeland Security Committee and that has been carefully cultivated under the leadership of that committee's chairman, the gentleman from Mississippi (Mr. THOMPSON), its ranking member (Mr. KING), and certainly Mr. LUNGREN, to my immediate left, who have all worked very hard to work in that bipartisan environment on the committee.

The bill started out in the 109th Congress where it was introduced by former Congressman Curt Weldon of Pennsylvania. Unfortunately, while it passed in the Homeland Security Committee, it was never addressed in the full House. Fortunately, in 2007, Chairman THOMPSON recognized the importance of this legislation and helped revive the bill in the new Congress. Both sides worked together to make sure that the bill accomplished its objective, to keep ammonium nitrate out of the hands of Timothy McVeighs and other would-be terrorists of the world while making sure that legitimate end users of the substance in agricultural production were not inconvenienced. An en bloc amendment offered by Chairman THOMPSON, for example, removed the requirement that farmers and others register with the Department of Homeland Security so long as they never come into possession of the ammonium nitrate.

In addition to protecting the rights of legitimate end users, the chairman

also helped make sure that the final legislative product had input from both sides of the aisle. Three key Republican amendments were added to the bill during committee markup as a result. First, offered by my colleague from California (Mr. LUNGREN), directed applications by those seeking to distribute or utilize ammonium nitrate be checked against a terror watch list with an expedited appeals process to handle any cases of mistaken hits. Ranking Member KING also offered an amendment that would protect legitimate distributors of ammonium nitrate if they act in good faith when they refuse to sell to a suspicious purchaser or if they notify the department of that would-be purchaser's suspicious behavior. Finally, Congresswoman BROWN-WAITE offered an amendment that would help to streamline record-keeping requirements for agricultural retail outlets. These amendments have all served to strengthen the bill.

The need for this legislation is clear. Ammonium nitrate has been the explosive material of choice in a number of acts and attempted acts of terrorism, including the 1995 bombing of the Murrah Federal Building in Oklahoma City which killed 168 innocent men, women and children. The 1998 attacks on the U.S. Embassies in Kenya and Tanzania, the Toronto-based bomb plot thwarted by the Royal Canadian Mounted Police in June 2006, of course, most recently, the attempts by a terrorist group in London to detonate explosive charges throughout the United Kingdom.

I hope the House will see fit to join me in supporting this effective legislation. It is a very bipartisan piece of legislation. Again, I would like to thank my colleague from California for yielding me this time and thank him for his leadership on this issue.

Mr. THOMPSON of Mississippi. Mr. Speaker, at this time, I do not have any additional requests for speakers, and I am prepared to close.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, let me just use the balance of my time to say that I thank the chairman for the work he has done on bringing this to the floor at this time so we can complete action with the Senate and get it to the President's desk to be signed. I would also like to mention the ranking member of the full committee (Mr. KING) who could not be here because he is still returning from the funeral for his mother who passed away this past week. Mr. KING has done tremendous work on this, particularly the amendment for liability protection for the sellers of ammonium nitrate if they act in good faith to protect the American people. Mr. KING has done yeoman work in this regard to this and other bills. I hope that we would recognize that at this time.

Again, Mr. Speaker, this is an example of a bipartisan approach to an issue that affects all Americans, Democrat, Republican, independent, whatever. It

is of the utmost importance. And once again, I thank all the members, Democrat and Republican, who worked on this, and I thank my chairman for bringing this to the floor and allowing us to vote on this time. I would ask for Members to have full support for this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, as DHS Secretary Michael Chertoff recently said, improvised explosive devices are the weapon of choice for terrorists. And when it comes to making an improvised bomb, regrettably, ammonium nitrate seems to be an easy access to use. That is why I authored the Secure Handling of Ammonium Nitrate Act. It will put safeguards in place to keep ammonium nitrate out of the hands of terrorists while ensuring that farmers can still access it. Ammonium nitrate fertilizer is a popular fertilizer because it is relatively inexpensive and highly effective.

In 2005 alone, 1.4 million short tons of ammonium nitrate fertilizer was used to direct application to farmers' fields. Passage of H.R. 1680 will ensure that ammonium nitrate will remain available to those who need to access it for proper purposes. At the same time, passage of this bill is an important step toward ensuring that our Nation is more secure against the threat of improvised explosive devices.

I, too, would like to acknowledge the work of the minority committee as well as Colleen O'Keefe, who will be leaving the committee today. Karis Gutter on this side, has worked on the majority side on the committee, and I would like to acknowledge both of them. At an earlier comment, I referred to Ranking Member KING's unfortunate tragedy in his family and why he was not here. So I would like to join with the comments of Mr. LUNGREN in that respect.

Mr. Speaker, I urge my colleagues to join me in passing this critical homeland security legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong support of H.R. 1680, legislation critical to securing our nation against further acts of terrorism. I am proud to co-sponsor this legislation, which I believe effectively balances necessary measures to provide additional security with the need to protect our agricultural industry.

On September 11th, 2001, our enemies demonstrated their ability to use everyday objects as deadly weapons. Ammonium nitrate is a product of great use to our nation's agricultural sectors, but, in the hands of terrorists, could cause America great harm. Like the airplanes flown into buildings, fertilizer bombs have been used to deadly effect, beginning infamously with the 1995 Oklahoma City bombing. We need to balance these very real security concerns against the vital value of ammonium nitrate fertilizer to the U.S. plant food industry, its many local retail agribusiness outlets, and the farmers and livestock producers they serve.

Ammonium nitrate fertilizes our nation's crops, and it helps the American economy

grow. It provides a relatively inexpensive source of the nitrogen required to grow crops, and it has economic, agronomic, and environmental benefits to the entire society. It can also, however, be used to create explosive devices, as demonstrated by the Oklahoma City bombing as well as by subsequent terrorist plots in 2000, 2002, 2003, and 2004.

According to a 1998 National Research Council report, "Containing the Threat From Illegal Bombings," short of a method of neutralizing the explosive properties of ammonium nitrate, which we do not yet have, commercial controls and regulatory action "offer the best means of reducing the threat from illegal bombings."

H.R. 1680 will require the creation of these controls and regulations. This bill will provide the Department of Homeland Security with the authority to develop a nationally consistent, effective, and integrated approach to control access to ammonium nitrate, and it will require the Department to develop a regulatory system aimed at keeping these fertilizers away from those who would use it to threaten our nation. Under the provisions of this legislation, the Department of Homeland Security will register all producers, sellers, and purchasers of ammonium nitrate, and those who purchase and take custody of this product will be required to provide their names, addresses, and telephone numbers to the Department. All of these individuals will be accountable for any ammonium nitrate they take possession of.

In addition, this legislation will require producers and sellers to maintain records of all sales and transfers for at least three years. Sellers will have the right to refuse sale to prevent misappropriation of this potentially dangerous substance, and they will be provided with guidance on identifying suspicious activity, as well as how to alert law enforcement officials to such behavior. Additionally, producers and sellers will be required to report any loss or theft to law enforcement within 24 hours.

This legislation also provides further means for enforcement, establishing a process for the Department to track, monitor, and audit the ammonium nitrate records. Under the provisions of this bill, enforcement may be delegated to States where cooperative agreements and sufficient funding exist. To punish violations, the Department may levy civil fines of up to \$50,000. This legislation does not preempt or alter any State statute providing additional protection against ammonium nitrate falling into the hands of terrorists.

Yet in our counterterrorism efforts we should not lose sight of the need to protect the American farmer, especially small farmers struggling to make ends meet on the family farm. Ammonium nitrate is an essential tool they use to sustain themselves and their families and those essential needs should not be overlooked. Our counter-terrorism efforts should not be detrimental to the continued availability of ammonium nitrate fertilizer to U.S. farmers, endangering their way of life and threatening their livelihoods.

H.R. 1680 offers an opportunity to strengthen our defenses against the threat of terrorism without placing an extraordinary burden on industry. This legislation has the support of The Fertilizer Institute, an industry group representing most fertilizer producers.

Mr. Speaker, as our nation's leaders, it is our responsibility to be proactive, and to make

every effort to remain several steps ahead of any who might attack our country. This bill is an opportunity to do just that, to not wait for another devastating attack to address what we already recognize to be a serious security threat. I strongly support this legislation, and I urge my colleagues to do likewise.

The SPEAKER pro tempore (Mr. CAPUANO). The question is on the motion offered by the gentleman from Mississippi (Mr. THOMPSON) that the House suspend the rules and pass the bill, H.R. 1680, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to authorize the Secretary of Homeland Security to regulate the sale of ammonium nitrate to prevent and deter the acquisition of ammonium nitrate by terrorists, and for other purposes."

A motion to reconsider was laid on the table.

#### TO ELIMINATE THE EXEMPTION FROM STATE REGULATION FOR CERTAIN SECURITIES DESIGNATED BY NATIONAL SECURITIES EXCHANGES

Mr. MEEKS of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2868) to eliminate the exemption from State regulation for certain securities designated by national securities exchanges, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2868

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SCOPE OF EXEMPTION FROM STATE SECURITIES REGULATION.

Section 18(b)(1) of the Securities Act of 1933 (15 U.S.C. 77r(b)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "or the American Stock Exchange, or listed, or authorized for listing, on the National Market System of the Nasdaq Stock Market (or any successor to such entities)" and inserting "the American Stock Exchange, or the Nasdaq Stock Market (or any successor to such entities)"; and

(B) by inserting before the semicolon the following: "except that a security listed, or authorized for listing, on the New York Stock Exchange, the American Stock Exchange, or the Nasdaq Stock Market (or any successor to such entities) shall not be a covered security if the exchange adopts listing standards pursuant to section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) that designates a tier or segment of such securities as securities that are not covered securities for purposes of this section and such security is listed, or authorized for listing, on such tier or segment"; and

(2) in subparagraph (B), by inserting "covered" after "applicable to".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. MEEKS) and the gentleman from New York (Mr. FOSSELLA) each will control 20 minutes.