

MINUTES OF THE House COMMITTEE ON Agriculture and Livestock

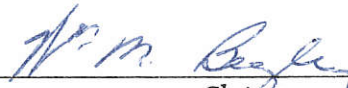
Held in Room 423-S, at the Statehouse at 9:00 a. m. / ~~P.M.~~ on February 19, 19 81.

All members were present except:

Rep. Bussman - Excused

The next meeting of the Committee will be held at 9:00 a. m. / ~~P.M.~~ on February 24, 19 81.

These minutes of the meeting held on February 19, 19 81 were considered, corrected and approved.


Chairman

The conferees appearing before the Committee were:

Rep. Ardena Matlack	Harold Coleman - Kansas City, KS
Terry Shafer - Lawrence, KS	Phil Dressen - Wichita, KS
Mr. Vogelsberg - Home, KS	Bill Duitsman - Secretary of Agriculture
Jim Floyd - Liberal, KS	Mr. Ruben - EPA, K.C. Regional Office

The meeting of the House Agriculture and Livestock Committee was called to order by William Beezley, Chairman. Chairman Beezley stated that as the deadline for introducing Committee bills is drawing closer, anyone wanting to introduce legislation dealing with pesticide applicator recertification should do so. Rep. Polson moved that a subcommittee be formed to look into pesticide applicator recertification and to possibly introduce legislation as a Committee bill. Rep. Leach gave a second to the motion. The motion carried. Chairman Beezley appointed Reps. Polson, Leach and Campbell as members of the subcommittee.

HB 2203

Raney Gilliland of the Research Department gave a review of the bill. This bill would amend the law to increase bond coverage from \$2,000 to \$25,000; bodily injury liability from \$25,000 to \$100,000; property damage liability from \$5,000 to \$100,000, and not less than \$25,000 for chemical drift. Supplements 2-2448 and 2-2457 would be repealed.

Rep. Matlack passed out copies of written testimony. (See Attachment I) She gave a short history of what had happened to the two bills she introduced in 1979, the outcome being that one bill, HB 2465, was not granted an interim study and as a result she asked that it be killed due to lack of agreement on procedures for more strict licensing requirements. The second bill was transferred to the Insurance Committee where there was no time to give it adequate consideration. Rep. Matlack cited several occurrences of chemical drift that had happened to several of her constituents. *Ia

After Rep. Matlack finished her testimony, Chairman Beezley asked that all questions be held until all conferees were heard.

Next to testify in favor of HB 2203 was Terry Shafer, Lawrence, KS. (See Attachment "II") Mrs. Shafer recommended that after consulting with the Insurance Department, Line 50, the words "chemical drift" be stricken and "third party liability for damages arising from the application of chemicals." be substituted.

Mr. Vogelsberg of Home, KS., told of his walnut groves that were the victims of chemical drift. His neighbor was spraying for thistles and brush and the drift rendered the entire walnut grove sterile. Mr. Vogelsberg came to Topeka to tell his story and ask the Committee if something can be done to work for a solution to this problem.

Mr. Jim Floyd, Liberal, KS., spoke in opposition to HB 2203. (See Attachment III) He said that there is a need to consider a time limitation on claims.

Mr. Harold Coleman, Kansas City, Ks., spoke in opposition to HB 2203. He said that he would like to recommend that additional coverage be required only for licensing Category 1, agricultural use. (See Attachment IV)

Phil Dressen, an insurance agent from Wichita, KS., stated that he knew of only one company that would be able to hand the type of bonding requirements that this bill addresses. The name of the company is Western Surety, Sioux Falls, South Dakota. This requirement would be 10% of the face value; an irrevocable letter of credit on file.

Chairman Beezley thanked the conferees and stated that as there was no time left for testimony, the bill might be taken up again week after next. Chairman Beezley introduced Bill Duitsman, Secretary of the State Board of Agriculture, who in turn introduced Mr. Ruben of the Kansas City Regional Office of the Environmental Protection Agency. Mr. Ruben stated that on July 25, 1979, endrin usage was cancelled by EPA. It was the consensus that the risk exceeded the benefit of endrin control. Mr. Ruben does not know how long it would take to get endrin back on the market. To his knowledge, no product has ever been brought back on the market after it has been cancelled. An exception to this pesticide has been to allow endrin usage in western Kansas to combat the army cut worm. The usage there can be made to apply with labeling restrictions.

After several comments from Rep. Polson, Chairman Beezley thanked Mr. Ruben for appearing and asked for action on the minutes. The minutes were approved and the meeting adjourned.

ARDENA MATLACK
REPRESENTATIVE, NINETY-THIRD DISTRICT
SEDGWICK COUNTY
615 ELAINE AVENUE
CLEARWATER, KANSAS 67026



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER JUDICIARY
GOVERNMENTAL ORGANIZATION
JOINT COMMITTEE ON ADMINISTRATIVE
RULES AND REGULATIONS

AGRICULTURE AND LIVESTOCK COMMITTEE
9:00 a.m., February 19, 1981

Mr. Rex Hoy, Chairman

Mr. Chairman and Members of the Committee:

Thank you for allowing me to appear before you today. Let me quickly tell you the history of this bill.

In 1979, two bills were introduced after a problem was brought to my attention concerning insurance requirements for aerial sprayers. One bill dealt with licensure requirements, the other bill you have before you. In 1979, the Agriculture Committee held hearings on these bills and then a subcommittee with Rex Crowell, Chairman, held several meetings with the Insurance Department, Agriculture Department, insurance agents, and aerial sprayers. The subcommittee recommended an interim study with which the whole committee agreed. Although Chairman John Vogel, Vice-Chairman Rex Crowell, and others recommended an interim study, it was not granted. At the beginning of 1980, I asked that HB 2465 be killed because aerial sprayers could not agree to procedures for more strict licensing requirements in order to prohibit the more careless aerial sprayers from out-of-state from operating in our State. The second

bill was transferred to the Insurance Committee. A hearing was held at the very end of the session so the Committee had no time to consider it adequately.

1981 Session HB 2203 raises the bonding or insurance requirements and deletes one section of law.

The present law now requires a \$2000 bond or liability insurance to be one of the requirements for receiving a pesticide business license. A \$2000 bond in 1979 could be bought for \$20 to \$60. Usually a bond costs 10 to 20% of its stated face value. This amount of bonding has been required for about 30 years. It takes a court action to get a bond forfeited. Costs, in both time and money, most often do not warrant trying to collect on a \$2000 bond; therefore, I have asked that the bond requirement be raised to \$25,000.

Liability insurance required now is "not less than \$25,000 for bodily injury for each occurrence, not less than \$5,000 for property damage, liability for each occurrence, with a \$500 deductible clause." However, this law does not require any chemical damage coverage. I contacted Mr. Ray Rathert, the Fire and Casualty Supervisor of the Kansas Insurance Department and I quote from his letter to me in 1979:

".....we reviewed current statutory requirements for aerial sprayers which carried liability insurance and found that the present wording does not require the type of liability insurance for damages resulting from the spraying or application of chemicals.

Needless to say this came as a surprise."

HB 2203 raises the insurance requirements plus adding a requirement for insuring against damage to third parties by chemical drift of \$25,000.

Section 2 of the bill repeals KSA 1978 (Supp. 2-2457). This was drawn to my attention by Mr. Mark Wetta, Attorney from Wichita. I quote:

KSA 1978 (2-2457) requires:

"In order to maintain a civil action, a person damaged from pesticide application shall have filed with the County Attorney of the county in which the damage occurred, a written statement, on a form prescribed by the secretary, claiming that he or she has been damaged. Such form shall be filed within sixty days after the date damage was discovered."

Because of the mandatory "shall", this statute, theoretically, will deny an injured party's legal right to recover for another's negligence because of a mere oversight in failing to notify the County Attorney's office.

The purpose of this statute is not readily apparent for in reading further the statute states:

"The County Attorney, upon receipt of such statement shall notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility and furnish copies of such statements as may be requested. Nothing contained in the provisions of this section shall be deemed to require any county attorney to maintain a civil action for any person."

Our question is simply this. Why must an individual who has been injured by the negligent application of pesticides be required to notify the county attorney's office when there is no apparent reason to so notify the county attorney? The statute specifically says that the county attorney shall not

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be required to prosecute civil action for a private citizen of Kansas. Yet, if the notice is not given to the county attorney the private citizen may well be barred from bringing a civil action on his own behalf for this mere failure to notify the county attorney's office.

As far as I know, this is the only statute that requires that kind of report before negligence can be prosecuted. Another lawyer who is representing a lady from Caldwell contacted me yesterday and said he accidently discovered the statute on the 59th day. He was the lucky one. There are other similar cases. This statute should be repealed.

The insurance requirements in this bill only apply to those who hold a commercial business license. Private agricultural applicators are not included. In other words, a farmer may spray his own ground without such insurance. Those licensed to handle general use pesticides are not included. In other words, those licensed but not certified are not covered in this insurance requirement. Therefore, those using 2-4-D and many of the other popular pesticides are not covered by this bill. Only those persons who apply restricted chemicals, those who are certified and licensed, are included in this bill. Some of those restricted chemicals are endrin, paraquat, strychnine, carbofuran, and chlordane.

The people who got me involved in this problem could not be here today. Mr. Kenneth Ott has been in the hospital and Mrs. Dixon has serious illness in her family. Mrs. Dixon

stated that an aerial sprayer spotted the wrong field and totally destroyed, by spraying with 2-4-D, over 40 acres of prime soy beans. The sprayer maintains that he is not financially able to pay them for their loss.

Mr. Kenneth Ott of Maize stated that an aerial sprayer was to spray with melathon and paithon but instead sprayed his 160 acres with 2-4-D. The damage was \$16,000 but the sprayer had no liability insurance. I ask the Committee, should chemical applicators of 2-4-D be required to have chemical drift coverage?

This bill may not be the answer to the problem. I think we can all agree that there is a problem. I think we can agree that third-party liability coverage for damage arising from the application of restricted chemicals should be required by law. I would hope the Committee will help in solving that problem. The Committee might consider a classification system for chemical applicators that would require different kinds and amounts of coverage for the different classifications. Examples of classification might be for industrial use, tree and turf use, agricultural ground spray use, and aerial spray use.

Real Estate Brokers are required to carry both bonding and insurance. Perhaps chemical applicators should, also, be required to have a bond and insurance, or maybe the bonding provisions should be eliminated altogether. Maybe a strict

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liability provision would be more applicable which would require that any person allowing any restricted or general use pesticide to drift would be liable for that damage. One person working with forestry problems thought that making non-commercial applicators responsible for damage caused by 2-4-D would be a tremendous help in solving our problems.

In my opinion, if a government requires licensing then the government is responsible to see to it that their licensees are responsible for any mis-application of their product.

I want to thank the Committee for hearing my problems, as several of you have heard them in the past. I hope that you have the time to make an extensive study of them and we can work together for a solution.

tained in conformance with laws and rules and regulations, and the secretary may require repairs or other changes before its further use for pesticide application. A list of requirements that equipment shall meet may be adopted by rules and regulations.

(b) The secretary may, in his or her discretion, require that any car, truck or other vehicle used for the purpose of applying pesticides or transporting pesticide application equipment or personnel to an application site be marked for identification purposes in a location and manner as the secretary shall prescribe: *Provided*, That such application is for the purpose of controlling pests in the categories of either (1) ornamental and turf pest control, or (2) industrial, institutional, structural and health related pest control.

History: L. 1976, ch. 1, § 19; Oct. 21, 1977.

2-2457. Action for damages; filing of statement; limitations. In order to maintain a civil action, a person damaged from pesticide application shall have filed with the county attorney of the county in which the damage occurred, a written statement, on a form prescribed by the secretary, claiming that he or she has been damaged. Such form shall be filed within sixty (60) days after the date damage was discovered. Such statement shall contain, but shall not be limited to, the name of the person responsible for the application of said pesticide and/or the name of the owner or lessee of the land on which it is alleged that the damage occurred. The secretary shall prepare a form to be furnished to persons for use in such cases and such forms shall contain such other requirements as the secretary may deem proper. A duplicate copy of this statement shall be sent by the county attorney to the secretary. The county attorney, upon receipt of such statement shall notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility and furnish copies of such statements as may be requested. Nothing contained in the provisions of this section shall be deemed to require any county attorney to maintain a civil action for any person.

History: L. 1976, ch. 1, § 20; Oct. 21, 1977.

2-2458. Pesticide advisory board; membership; terms; vacancies; powers and

duties; meetings; quorum; compensation and allowances. (a) There is hereby created a pesticide advisory board which shall consist of the following members: (1) The secretary of health and environment; (2) the executive director of the state water resources board; (3) the director of the forestry, fish and game commission; (4) the director of the state geological survey of Kansas; (5) the secretary of the state board of agriculture; (6) the executive secretary of the state conservation commission; (7) the livestock commissioner of the animal health department; (8) the director of the biological survey of Kansas; (9) the director of extension of Kansas state university of agriculture and applied science; (10) the director of the agricultural experiment station; (11) one member appointed by the speaker of the house of representatives; (12) one member appointed by the president of the senate; (13) one member licensed under the provisions of this act to operate ground equipment appointed by the governor; (14) one member licensed under the provisions of this act to operate aerial equipment appointed by the governor; (15) one member from the pesticide industry who manufactures or wholesales pesticides appointed by the governor; (16) an agricultural user of pesticides appointed by the governor; and (17) the president of the Kansas termite and pest control association. The members appointed by the governor shall serve for terms of four (4) years and may be appointed for successive four (4) year terms at the discretion of the governor. The governor may remove for cause any member appointed to the advisory board prior to the expiration of such member's term of appointment. Any member may designate an alternate to attend any meeting of the pesticide advisory board.

(b) Upon the death, resignation or removal for cause of any member of the advisory board appointed by the governor, the governor shall fill such vacancy, within thirty (30) days of its creation, for the remainder of the term in the manner herein prescribed for appointment to the advisory board.

(c) The advisory board shall advise the secretary on any or all problems relating to the use, manufacture, transportation, application and restriction of pesticides in the state.

(d) The pesticide advisory board estab-

lished under this act shall continue to receive compensation after the effective date of this act, with all the rights, authority and jurisdiction of the advisory board until the terms of this act, if not previously expired, have been filled in accordance with the provisions and requirements of this act.

(e) The pesticide advisory board shall be established by subsection (a) of this act at a meeting held after the effective date of this act. The chairman of the advisory board shall serve a term of four (4) years. Thereafter, the advisory board shall meet upon the call of a majority of its members. The advisory board shall constitute a quorum of the pesticide advisory board. The members of the pesticide advisory board shall be eligible to receive compensation and allowances as provided in this act.

History: L. 1977.

Source or prior law: L. 1977, ch. 3, § 2-2429.

2-2459.

History: L. 1977, ch. 3, § 2-2459.

2-2459a.

secretary may, at the request of the state university, conduct short courses on the safe use and application of pesticides.

History: L. 1977, ch. 3, § 2-2459a.

2-2460.

History: L. 1977, ch. 3, § 2-2460.

2-2460a.

Secretary shall advise the secretary of the state on any or all problems relating to the use, manufacture, transportation, application and restriction of pesticides in the state.

History: L. 1977, ch. 3, § 2-2460a.

Sorry My typewriter
went to college.

-Ia

Clearwater, Kans
Dec 10, 1978

Mrs Ardena Matlack
Clearwater, Kans.

Dear Mrs. Matlack:

On or about July 2nd, 1977, an
aerial sprayer, Roger Strain, flying
out of Maize Airport, Maize, Kansas,
did accidentally spot the wrong field
and did spray and totally destroy, with 24D,
over forty acres of ^{our} prime soybeans.
These soybeans (in the same field and
adjoining fields) averaged 37.3 bushels
per acre and were contracted to Mc
Cury Bros elevator for \$6.79 per bushel.
Mr Strain has readily admitted his
mistake but maintains that he is
financially unable to pay us anything
at all for our loss. Meanwhile, we
have had a lawyer pursue the matter,
to no avail. When Rex Wetta (the attorney)
wrote Jagota to get information on Mr.
Strain's license and bonding, which is
supposed to be made available on re-
quest, he was not even given the
courtesy of a reply. He ultimately

dropped the matter at our request

To the best of our knowledge, Kansas law requires an aerial sprayer to carry a bond of "\$2500" only, a ridiculous amount, considering that this fellow cost us a financial loss of "\$14,800" (guaranteed income as the beans were contracted) And it could've been much worse. Had the price of beans gone higher, we would have had to buy them to fulfill our contract, and that would have cost us a lot more.

We can't even drive an automobile without carrying liability insurance in the thousands (\$100,000. at least) Yet these aerial sprayers can accidentally wipe out a farmer's entire crop (possibly his entire yearly income) and he has no recourse under Kansas law. (The "\$2500" bond wouldn't even pay the lawyers fee to collect it!)

I respectfully request that you pursue effective legislation to protect the Kansas farmer (and other citizens) from severe financial losses due to irresponsible aerial spraying.

Respectfully,
Shirley H. Bistrow

RR 3
Lawrence, KS 66044
19 February 1981

William Beezley, Chairman
House Agriculture and Livestock Committee
Room 446 N
Statehouse
Topeka, Kansas

Testimony from Kansans for Safe Pest Control on HB 2203

This bill requires pesticide applicators to have insurance or bond to cover damages arising from pesticide application. Currently, the law does not require applicators to have any coverage relating to pesticide application. People who are damaged by pesticide misuse need to be assured that they can be compensated for their losses.

After consulting with the Insurance Department, we recommend that in line 50, the words "chemical drift" be stricken and the following substituted: "third party liability for damages arising from the application of chemicals." This would cover chemical drift damage to people outside the spray contract--those who most need to be covered.

Pesticide misuse hurts many Kansans every year. At the very least, we should ensure that these people are able to receive compensation for their losses if they take the matter to court and get a judgment in their favor. We should be doing more to prevent this damage. The people hurt most by pesticide misuse are farmers. They pay for the chemical which drifts off their crops. They often have to pay their neighbors for an applicator's negligence. And they suffer when the wrong pesticide drifts onto them. Sometimes it kills crops such as alfalfa, soybeans, walnut trees, fruits and vegetables. Sometimes it contaminates crops with a chemical for which there is no tolerance (for instance, toxaphene on hay for dairy cows.) Sometimes it kills livestock. And sometimes it makes people sick.

These farmers--and others, such as beekeepers, homeowners, people travelling on roads who happened to be sprayed--are angry. Above all, they don't want it to happen again. They also need to be compensated for their losses. The current \$5,000 property damage insurance will not go very far towards covering the loss of a beekeeper who lost \$10,000 worth of bees and \$30,000 in production from his hives this year. The \$2,000 bond won't come near to covering the loss of a grove of walnut trees or a \$30,000 crop of soybeans.

We cannot make a case for exactly the amount of coverage required by this bill. But the coverage clearly needs to be greater than is required by the present law. In fact, most applicators know this and if you pick an applicator at random the chances are that he will have more insurance than is required by this bill. This bill affects a minority of pesticide applicators, but most of the problems are caused by a minority.

There has been at least one case which went to court and resulted in a settlement that the applicator could not pay. There have many cases in which damaged people did not try to collect because inquiries indicated that the sprayer could not pay.

The other very important point covered by this bill is the removal of the 60-day limitation for filing a pesticide damage claim in order to maintain a civil suit. The 60-day limitation has prevented people from recovering damages, but it has not served any other purpose. We see no reason that such a form needs to be filed as a prerequisite to civil action at all.

It is true that in many cases pesticide residues cannot be detected more than 3 or 4 days after the application. But in other cases covered by this law (for example, those involving termite treatments), residues can be expected for years. The 60-day period has no particular relation to the existence or non-existence of residues. It also has no relation to whether or not the affected crop may have been harvested.

The 60-day limitation also has no effect in getting people to report pesticide misuse cases in time for an adequate investigation by the state. It might possibly have some effect if people were aware that such a limitation existed when the damage occurred. But most people learn of the time limit when filling out the form or after calling the Board of Agriculture. One couple learned when their case was thrown out of court, but they were sprayed again the next year and had a chance to try again.

The Insurance Department reported to us that the financial requirements for surety bonds in the amount of \$25,000 would make them practically unavailable to applicators. However, bonds in similar or higher amounts are an option in other states. I talked with pesticide law enforcement people in Missouri, Iowa and Oklahoma. Missouri has a \$25,000 bond option. Very few applicators have the bond, whereas 2500 applicators have chosen the insurance option. John Hagan, the Superintendent of the Bureau of Pest Control, says he believes that the bond is not in the interest of either the applicator or the state and that any good businessman would protect himself against the possibility of claims arising out of the use of chemicals. Iowa has a \$50,000 bond option. There are two bonds on file with them from Safeco Insurance Company of Seattle, Washington. Finally, aerial applicators from Kansas and other states who do business in Oklahoma are required to have a \$15,000 bond. This is a double indemnity^{burd}, presumably roughly equivalent to a \$30,000 bond in Kansas. One of the companies which handles such bonds is Messr. Bowers in Enid, Oklahoma. I talked with Beverly Krause of Messr. Bowers. She couldn't quote me figures for the financial backing required to get the bond, but said that in general insurance is required, sometimes including chemical liability. Similar requirements are made for the smaller bonds required of in-state applicators. She also said that applicators in Oklahoma are trying to get the bond requirement dropped in favor of an insurance requirement

because the bond is so much trouble. It appears to us that bonds must be available in the amounts required by this bill, and, in fact, that many Kansas applicators have them. If they are really practically impossible to get, perhaps it would be best to drop the bonding alternative altogether. Dave Gross of Gross Insurance Agency, which handles many bonds and insurance policies for applicators, says he has never ^{run} into an applicator who didn't have insurance, and as far as he can recall, has never turned anyone down for insurance. If anyone was turned down, he said, it would be because of a record of too many cases of damage.

We feel that there are other things that need to be done to protect people in Kansas from the misuse of pesticides. The financial requirements we have been discussing do not apply to commercial ground applicators applying general use pesticides to agricultural land, crops or livestock because these businesses are not required to be licensed. Since one-third of the agriculture-related damage complaints arise from ground spraying and 75% of those involve 2,4-D and other phenoxy herbicides, which are general use pesticides, it seems reasonable to us that those ground applicators should also have to meet the licensing requirements. We also think that the law should require all applicators (not just those required to be licensed, registered or certified) to apply pesticides properly.

If the pesticide law enforcement program is adequately funded and staffed, much more could be done to prevent pesticide misuse problems. But if that program is restricted to responding to complaints (and current budget recommendations don't even allow adequate funding for that!), the burden of dealing with pesticide misuse will continue to fall on damaged individuals. And if that situation continues along with the current difficulty of collecting compensation for pesticide damage, there will be increased pressure to ban pesticides altogether. I do not know whether that movement would be successful. But it would certainly lessen the prospects of solving our pest problems if the atmosphere was so polarized that we had to take an all-or-none stand.

Terry Shafer

Terry Shafer
Kansas for Safe
Pest Control

Copy of Attachment III
as listed in minutes
not received from committee.

**FAULTLESS PEST CONTROL, INC.**

TELEPHONE (913) 236-8660 / 1905 WEST 43RD STREET (AT STATE LINE) / KANSAS CITY / KANSAS 66103

February 19, 1981

Representative William Beezley
Chairman House Agriculture Committee

Re: HB2203

Since the Drift Coverage in the proposed Bill mostly concerns Aerial Application and Agriculture Field Application, I would like to recommend this additional coverage be required only for licensing Category 1 - for agriculture.

In 1980 Business licenses were issued in 1,307 categories; of these, 439 or 1/3rd were in Category 1 for Agriculture Pest Control.

I do not feel that the other 2/3rds of the industry should be burdened with additional expenses in view of their good experience record.

Category 7 - Industrial, Institutional, Structural and Health Related Pest Control and Category 3 - Ornamental and Turf Pest Control are insured on a general contractors insurance contract.

I believe drift or any other damage to neighbors property is covered by this insurance.

After making inquires as to where and how much Chemical Drift coverage would cost, I find it difficult to obtain as per the attached letter.

Harold L. Coleman
Legislative Chairman
Kansas Termite and Pest Control Association

G. A. LUCAS, INC.

5930 Roe Avenue • Shawnee Mission, Ks. 66205 • (913) 831-4100

AFFILIATED WITH
INS - PRO, INC.

We've Moved
3101 E. ROADWAY
SHAWNEE MISSION, KS 66205
(913) 831-4100

February 12, 1981

Harold Coleman
Faultless Pest Control
1905 43rd Street
Kansas City, Kansas 66104

Dear Harold:

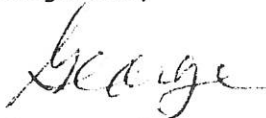
I have searched all the markets in our office in an attempt to locate a company willing to quote coverage which would include "Chemical Drift" for your operation.

In addition to our direct markets, I have also exhausted the available markets through our E.&S. (Excess and Surplus Lines) markets. No one is interested in providing this coverage.

Harold, I suppose if the bill is passed, which hopefully it will not be, the only solution would be to purchase some form of bond as we had discussed. Incidentally, a bond of this type will not necessarily be that easy to provide either, but I'm sure we will be able to get that job done.

I'm sorry I wasn't able to help you in locating a market interested in providing the coverage, hopefully it will not be needed.

Regards,



George A. Lucas
GAL:cjl



KANSAS INSURANCE DEPARTMENT

State Office Building—First Floor
Topeka 66612 913-296-3071

STATE OF KANSAS

FLETCHER BELL
Commissioner

February 6, 1981

Mr. Harold Coleman
Faultless Pest Control, Inc.
1905 West 43rd Street
Kansas City, Kansas 66103

Dear Mr. Coleman:

This acknowledges our telephone conversation regarding House Bill 2203.

A review of our records for prior legislative actions which were similar to the current proposal do not reveal any conclusive statement pertaining to the availability of drift coverage for residential/commercial pest control applicators.

I have contacted Mr. Rich Ryan of the National Indemnity Company, 4032 Harney Street, Omaha, Nebraska 68131. (telephone no. 402-346-7400). Mr. Ryan is an underwriter who is familiar with the liability coverages written for pesticide applicators, and it was his opinion that chemical drift coverage would not be available from normal insurance markets for residential or commercial applicator (that is, an applicator not involved with aerial or agriculture application of chemicals).

Mr. Ryan also indicated his company's willingness to respond to the written inquiry regarding this matter. You may wish to furnish Mr. Ryan with a copy of the current House Bill and request any comments he may have regarding liability coverages required.

Hopefully this information will be of assistance to you.

Very truly yours,

Fletcher Bell
Commissioner of Insurance

Robert D. Hayes
Fire & Casualty Policy Examiner

RDH:bf
1167

PESTICIDE DAMAGE CLAIM

Kansas Pesticide Use Law, KSA 1970 Supp., 2-2424 Sec. 12,

"In a criminal action, a person damaged from pesticide application shall have filed with the county attorney a written statement claiming that he has been damaged, on a form prescribed by the secretary within sixty (60) days after the date that damages occurred, or prior to the time that twenty-five percent (25%) of a damaged crop shall have been harvested."

(Complete in duplicate and file with the county attorney where damage occurred)

PERSON FILING REPORT Harold L. Jacobs DATE July 25 80
ADDRESS R4 Yates Center, Mo. 64783 PHONE 310 625-2059

PERSON OR PERSONS WHO RECEIVED ALLEGED DAMAGES FROM PESTICIDES
The Farms of Mr. & Mrs. Harold L. Jacobs

KIND OF PROPERTY DAMAGED Walnut & Hedge trees 13a bean field also
Red clover 12.5a field

DATE AND TIME DAMAGE OCCURRED June 11-80

LOCATION OF DAMAGE: LEGAL DESCRIPTION 27428
COUNTY Woodson QUARTER SECTION TOWNSHIP 24 RANGE 15

ADDRESS OR OTHER DESCRIPTION 3 N of 54975 Junction 1 W
1 1/4 N.

TYPE OF DAMAGE yellowed ^{off} leaves on some walnut & hedge trees
and about 1/2 to 1/3 on other reduced bean stand 55-60%
3 on 13a field

SYMPTOMS OR CONDITION OBSERVED filled all leaves on some walnut & hedge
down to 1/2 to 1/3 on other reduced bean stand 55-60%
on 13a field crushed clover plants 55-60% 12.5a field.

PESTICIDE (ACTUAL OR SUSPECTED) actual drift of 24D

CLIMATIC CONDITION AT TIME OF DAMAGE: late in day

Wind Direction SW 0-5 mph 5-10 5-15 mph 10-15 Over 15 mph

Temperature Below 65 F 75°F-85°F Over 85°F ✓

Sky Clear ✓ Scattered clouds Overcast

OTHER INFORMATION

OWNER OR LESSEE HIRING THE APPLICATOR R. D. Gordon

PERSON APPLYING PESTICIDE Wired to Wayne Eck Pilot center

KIND OF APPLICATION EQUIPMENT plane

This report is accurate and complete to the best of my knowledge.

SIGNED Harold L. Jacobs WITNESS Donald Jacobs

KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

February 18, 1981

The Honorable Ardena Matlack
House of Representatives
Room 272-W, Statehouse
Topeka, KS

RE: House Bill 2203, An Act relating to pest control;
concerning surety bond and insurance requirements.

Dear Rep. Matlack:

I have read the proposed captioned bill. As a concerned citizen who might at sometime enter into an agreement with an applicator to perform certain services, I would certainly think it would be prudent and logical that the applicator be required to furnish financial responsibility. It would seem to me that this would be an act he would want to perform to maintain creditability. This proposed act does not seem to be something that is trying to regulate someone out of business or tell him how to operate his business, but merely protecting the public.

I would support the bill as it is written.

Sincerely,

DIVISION OF AVIATION

RAY ARVIN
Director

RA:jw