

Approved

Date 2-13-85

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Representative Lloyd D. Polson at
Chairperson

9:00 a.m./~~p.m.~~ on January 30, 1985 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

Raney Gilliland, Legislative Research Department
Norman Furse, Revisor of Statutes Office
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Don Jacka, Assistant Secretary, Kansas State Board of Agriculture

The Chairman announced Don Jacka was going to present to the Committee proposed legislative changes for the 1985 Session by the Board of Agriculture.

Don Jacka explained the legislative changes as outlined in Attachment A. The cost of producing the 66th Biennial Report was \$3.90 a book.

Raney Gilliland reviewed Proposal No. 1, Marketing of Kansas Agricultural Products; Proposal No. 2, Artificial Dairy Products Labeling; and Proposal No. 3, Sale of Kansas Agricultural Products Under the Uniform Commercial Code, that were studied by the interim Special Committee on Agriculture and Livestock this past summer and what actions were taken by the Committee.

The meeting was adjourned at 9:50 a.m.



KANSAS STATE BOARD OF AGRICULTURE

TOPEKA, KANSAS 66612-1280

HARLAND E. PRIDDLE
Secretary

109 S.W. 9th Street
913-296-3556

Memo to: Senator Jim Allen and Representative Lloyd Polson
From: Harland E. Priddle, Secretary
Kansas State Board of Agriculture
Re: Proposed legislative changes for 1985 session
Date: January 24, 1985

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INFORMATION**

The following is a list of the legislative proposals requested by the agency.

I. Marketing Division

Summary - Authority to enter into contracts for the purposes of market development.

Background - The increase in activities of the agency's Division of Markets in the area of market development necessitates the ability for the agency to contract for professional services specifically tailored to the market area affected. Such contracts would ensure that the market development efforts of the Division of Markets would be productive.

Recommendation - Enact a statute granting the secretary authority to enter into contracts for the purposes of market development and performing the duties imposed by K.S.A. 74-530 et seq. and K.S.A. 2-3001 et seq.

II. Weed and Pesticide Division

(a) Summary - Suspension of pesticide business license for failure to maintain adequate insurance throughout the licensing period.

Background - The present statute allows immediate suspension only when the insurance company has cancelled the insurance policy but does not permit the same mechanism to be used when the business licensee allows the insurance to lapse during a licensing period.

Recommendation - Amend K.S.A. 2-2450 to permit the secretary to suspend a business license without a hearing for failure to maintain adequate insurance throughout the licensing period.

(b) Summary - Licensing exemption for commercial applicators of general use pesticides who use non-aerial means of application.

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Attachment A

Background - Present law exempts from licensing those commercial applicators who apply general use pesticides by other than aerial means. All other commercial applicators of pesticides must be licensed. This creates unequal treatment of those businesses required to be licensed in order to apply pesticides on a commercial basis.

Recommendation - Amend K.S.A. 2-2440 to delete this exemption.

(c) Summary - Dealer registration for pesticide sales.

Background - Present state laws do not require registration of pesticide dealers. FIFRA, a federal statute, as currently administered by EPA, requires that pesticide dealers maintain records to substantiate that restricted use pesticides (RUPs) are not made available to uncertified individuals. Thus, a certified farmer could not have his uncertified wife or son pick up an RUP at the co-op without violating federal law.

Recommendation - Enact legislation to correct this deficiency by requiring registration of pesticide dealers and maintenance of records by them.

(d) Summary - Chemigation.

Background - The present pesticide law was enacted prior to the time that pesticides were applied through various irrigation systems. This change in farming practice necessitates an examination of the application of pesticides, fertilizers or other chemicals and the safety aspects required to prevent backflow into an aquifer or other source of water.

Recommendation - Enact legislation to regulate this new farming practice.

III. Entomology Division

(a) Summary - Add a quarantine provision to the Kansas Apiary Act and broaden the definition of disease to include conditions caused by mites or other parasites.

Background - The present Kansas Apiary Act (K.S.A. 2-412 et seq.) defines disease solely in terms of fowl brood and related conditions that does not include disease conditions caused by mites or other parasites. The broader definition would update the Act. The Apiary Act presently contains no quarantine provisions which will assist in the prevention of the spread of disease. This quarantine provision also will be helpful if and when the "Africanized" bee arrives in Kansas.

Recommendation - Adopt a quarantine provision and amend the definition of disease in the Apiary Act accordingly.

- (c) Summary - Stop sale provision in the Agricultural Chemical Act (K.S.A. 2-2201 et seq.).

Background - The agency administratively has used the stop sale provisions in the administration of this Act. Since the decision of the Kansas Supreme Court in Pork Motel Corp. v. Kansas Department of Health & Environment, 234 K. 374, rendered in 1983, it seems advisable to put a specific stop sale provision into the Act.

Recommendation - Amend the Agricultural Chemical Act to contain stop sale provisions.

IV. Statistics Division

Summary - Require annual publication of the agency's Annual Report.

Background - This agency's Annual Report contains statistics on the numbers of various breeds of livestock as well as crops and their distribution throughout Kansas. This report has been published annually for at least the last 30 years up until 1982. The report was not published in 1983 due to lack of funding. The industry, legislature, libraries, banks, marketing organizations and other key elements of agri-business rely upon this publication as a valuable tool in decision making for their businesses.

Recommendation - Amend K.S.A. 74-504 to require publication of an annual report.

V. Inspections Division

- (a) Meat and Poultry -

Summary - Require inspection of buffalo.

Background - Presently the Act does not require inspection of buffalo which are slaughtered and processed into food for human consumption. In 1983, 209 buffalo were slaughtered and processed for human food; much of the resulting meat products

were retailed through stores selling buffalo. The Meat and Poultry Inspection Act exempts retail stores only if the meat or meat food products sold by them comes from state or federally inspected and passed carcasses. Such an amendment would close the gap in the current law.

Recommendation - Amend the Kansas Meat & Poultry Inspection Act (K.S.A. 65-6a18 et seq.) accordingly.

(b) Control -

- (1) Summary - Amend the Kansas Feeding Stuffs Law, the Kansas Fertilizer Law and the Kansas Livestock Remedy Law to add stop sales provisions.

Background - At the present time, these statutes do not have such provisions and the agency has operated on past policy. To continue to do so without specific authority is not advisable in view of the Pork Motel decision rendered by the Kansas Supreme Court in 1983.

Recommendation - Amend the aforementioned statutes accordingly.

- (2) Summary - Amend the Kansas Soil Amendments Act to permit the secretary to require proof of efficacy when no claims have been made for the product being registered.

Background - This Act was enacted in 1976 at which time no proof of efficacy was required. In 1980, the Act was amended to require proof of efficacy whenever claims were made for the product. This existing loophole permits the sale of water or some other product without making any claims.

Recommendation - Amend the Kansas Soil Amendments Act accordingly.

(c) Dairy Inspection -

- (1) Summary - Add the definition of adulteration to both the Kansas Grade A Milk Law and the Kansas Dairy Law.

Background - Neither of these acts contain a definition of adulteration. Apparently the legislature felt the definition of this term as found in the Kansas Food, Drug and Cosmetic Act would suffice. All that is required would be a reference to K.S.A. 65-664 which defines adulteration in the Food, Drug and Cosmetic Act.

Recommendation - Amend the Kansas Grade A Milk Law and the Kansas dairy laws accordingly.

(2) Summary - Milk survey ratings under the Kansas Grade A Milk Law.

Background - Presently the Grade A Milk Law vests the administration and enforcement of that Act in the Board of Agriculture and the Kansas Dairy Commissioner; however, milk survey ratings are to be conducted by the Secretary of Health and Environment. Milk survey ratings could be performed by the Board of Agriculture without any conflict in present duties or conflict of interest. The assignment of this function to the Secretary of Health and Environment creates an unfeasible duplication of responsibility which is unnecessary.

Recommendation - Amend K.S.A. 65-737 to delete all references to the Secretary of Health and Environment.