

Approved

Date 3-4-85

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

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

9:00 a.m./~~p.m.~~ on February 20, 1985 in room 423-S of the Capitol.

All members were present except: Representatives Dean, Rezac, Freeman and Teagarden who were excused.

Committee staff present:

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

Conferees appearing before the committee:

Representative Robin Leach
Bill Fuller, Kansas Farm Bureau
Rebecca Crenshaw, Committee of Farm Organizations
Jim Moore, Associated Milk Producers
Harlan Page, Mid-America Dairyman
Francis Kastner, Kansas Food Dealers
Archie Hurst, Dairy Commissioner, Kansas State Board of Agriculture
Tom Tunnell, Kansas Fertilizer and Chemical Association

Hearing on H.B. 2001 - Requiring labels on certain artificial dairy products.

Representative Leach stated the labeling law is one of the most important things that could happen to the dairy industry. He feels the bill is a consumer bill and urged the committee to seriously consider the labeling law, (Attachment A).

Bill Fuller reported the members of the Kansas Farm Bureau support the creation of a labeling act for artificial dairy products, (Attachment B).

Rebecca Crenshaw said her organization asks that this legislation be passed, (Attachment C).

Jim Moore said imitation cheese is made in this country, but one of the ingredients, casein, which is a dairy product, is imported. He also stated proper labeling is important for dietary reasons.

Harlan Page said his organization supports the passage of H.B. 2001.

Francis Kastner stated she had nothing to add to the testimony already presented.

Archie Hurst testified H.B. 2001 is a consumer bill. He felt the consumer should be able to tell easily what they are purchasing, whether it be real cheese or imitation cheese, and the consumer should have the right of choice. He would like Section 8 to be eliminated, that all products should be properly labeled so the consumer would be properly informed.

The Chairman announced the hearing on H.B. 2001 is closed.

The Chairman passed out copies of a bill draft enacting the agricultural production input lien law. He explained there has been interest expressed in passing this bill to ease the problems in debt collecting, (Attachment D).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,
room 423-S, Statehouse, at 9:00 a.m. ~~p.m.~~ on February 20, 1985

Tom Tunnell informed the Committee the agricultural production input lien law is patterned after the Minnesota and Iowa laws that were passed last year. He explained the bill would facilitate easier credit.

A motion was made by Representative Apt to introduce the bill to enact the agricultural production input lien law. Representative Sallee seconded the motion. The motion passed.

Representative Roenbaugh explained a bill she would like the Committee to introduce. The bill would increase elevator inspections from one to two inspections a year by the State Grain Inspection Department.

Representative Buehler moved to introduce the bill for increased elevator inspections. Representative Neufeld seconded the motion and the motion passed.

The Chairman referred the elevator inspection bill to the subcommittee studying grain warehousing indemnity funds and insurance.

The Committee meeting was adjourned at 10:00 a.m.

The next meeting will be 9:00 a.m. Thursday, February 21, 1985, in Room 423-S.

STATE OF KANSAS

ROBIN D. LEACH
REPRESENTATIVE, DISTRICT 47
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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER: ASSESSMENT AND
TAXATION
MEMBER: EDUCATION

Another government policy has drastically affected dairy farmers and cheese sales. It is the policy adopted by the Food and Drug Administration in the mid-1960s when FDA decided not to pursue an appeals court decision that struck down the so-called filled milk law.

The court's rationale was that the laws were old fashioned and failed to recognize new technology. FDA's decision to allow this law to be terminated made practical the development and marketing of imitation cheese, made from imported casein and vegetable oil.

Current figures show that imitation cheeses have grabbed 5 to 7 percent of the mozzarella and American cheese markets. The advent of imitation cheese has been detrimental to dairy farmers, but has benefited certain cheese manufacturers.

By far and away, the most limiting legal factor on imitation cheese can be a requirement for appropriate labeling, both for retail and for food service products. The consuming public has a highly negative reaction to the term "imitation."

2/20/85

Attachment A



Kansas Farm Bureau, Inc.

2321 Anderson Avenue, Manhattan, Kansas 66502 / (913) 537-2261

STATEMENT

of

KANSAS FARM BUREAU

to

HOUSE AGRICULTURE AND SMALL BUSINESS
Representative Lloyd Polson, Chairman

by

Bill R. Fuller, Assistant Director
Public Affairs Division
Kansas Farm Bureau

February 20, 1985

* * * * *

Mr. Chairman and members of the Committee:

We express our appreciation for this opportunity to convey the views of the Farm Bureau membership to you as you consider H.B. 2001 which would require labeling of artificial dairy products.

Our members support proper labeling of food and other agricultural products. We believe consumers should have the opportunity to purchase any food product they desire. We also believe those same consumers have the right to expect adequate labeling so they may make informed judgments when considering artificial, substitute or imitation products. Farm Bureau has a significant stake in this consumer issue since our membership currently consists of 109,963 families, and all are consumers.

We base this statement on the "Labeling" resolution adopted by the voting delegates representing 105 county Farm Bureaus at the most recent Annual Meeting of the Kansas Farm Bureau:

2/20/85

Attachment B

Labeling

We support proper labeling of foods, fibers, and other agricultural products.

We oppose the use of the names of natural farm products on substitutes for such natural foods. We do not object to any new food product entering the market. Such products should stand on their own merits and be correctly labeled.

All products offered to the public in imitation of, or as a substitute for, or in the adulteration of, any farm product or any item processed from a farm product should be labeled to include the names of all ingredients and, where labeled "home grown" or "native," the point of origin.

In August of 1983, the Federal District Court for the State of Kansas found the Kansas Filled Dairy Products Act unconstitutional. In abandoning this law which prohibited the manufacture and sale of dairy products to which non-dairy fats had been added, the Court suggested the consumer could be protected by less restrictive methods—labeling. There are a number of reasons why Kansas consumers now need the protection of a "labeling law" in order to make informed purchases:

1. Kansas is now being flooded with artificial dairy products.
2. Artificial dairy products are generally found in dairy cases in supermarkets.
3. Artificial dairy products often use the word(s) "dairy," "milk" or "cheese" as a part of their labeling.
4. Artificial dairy products generally look, feel and taste like real dairy products.

Several concerns and objections were expressed when the 1984 Kansas Legislature attempted to create a "labeling act":

1. Constitutional concerns
2. Enforcement procedures
3. Possible restriction on interstate commerce
4. Appropriate penalties for violation: criminal vs. civil
5. Space requirements and burden of the proposed labeling
6. Exemption for pizza

The legitimate concerns were addressed by the Legislature through amendments to H.B. 3055. Unfortunately, most objections to labeling were little more than "smoke screens" intended to allow continued deception and prevent the consumer from making informed purchases. We do not object to any new food product entering the market. However, we insist any such product be correctly labeled and should stand on its own merits.

Mr. Chairman and members of the Committee, we thank you for this opportunity to express the support of the members of Farm Bureau for the creation of a labeling act for artificial dairy products. Thank you!

Committee of . . .

Kansas Farm Organizations

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Testimony of the

COMMITTEE OF KANSAS FARM ORGANIZATIONS

with respect to

Proposal 2 - Artificial Dairy Products

presented by

Rebecca Crenshaw
Legislative Representative

to

Special Interim Committee on Agriculture & Livestock

October 8, 1984

Mr. Chairman, members of the committee. my name is Rebecca Crenshaw. I am the legislative representative for the Committee of Kansas Farm Organizations, a coalition of 19 agriculturally-related organizations representing Kansas farmers and ranchers on state legislative issues. Our committee certainly appreciates the opportunity to present our views on the labelling of artificial dairy products.

As our organization stated during the 1984 session, we are supportive of the efforts being taken by the dairy industry in the area of labelling. The reasons for the committee's support is consistent with most farmers' views about marketing of ~~few~~ farm products. Farmers, generally speaking, do not want to restrict consumers' choices but want consumers to know exactly what they are buying. The government has generally supported this belief for both informative and health promotional reasons.

Consequently, we have nutritional labels on most products and actual grading of many products showing which products are superior over others. Both the grading and labelling is designed to inform and protect the consumer.

From a slightly different angle, Mr. Chairman, this committee has, in the past, examined the perceived problem of international grain buyers purchasing wheat which resembles hard red winter wheat in appearance but lacks the milling qualities of which Kansas is so proud.

The concern presented was how to stop such wheat from being sold to buyers who possibly thought they were buying hard red winter wheat.

2/20/85
Attachment C.

Now it might be that the buyers of that wheat don't care whether it is hard red winter. But Kansas farmers want purchasers to know that looks can be deceiving and that simply because grains look alike, the qualities can be vastly differently.

Mr. Chairman, the analogy between wheat and dairy products is fairly strong in this situation. The dairy industry is not attempting to protect dairy products from competition. The proposals would, however, allow consumers to know exactly what is being purchased. The consumer should not be subjected to being "tricked" by a name. If an oil product attempts to imitate a dairy product, the consumer should be able to glance at the label to determine if it is a dairy product since the product's appearance may be deceiving. It is highly probable many consumers will choose imitation dairy products for dietary purposes.

I will leave it to the attorneys to fashion legislation which is constitutional and still accomplishes the objectives presented today. I have no specific suggestions, at this time, as to how a statute should be written.

However, we do feel this committee should realize that a drastic change from a barring of artificial dairy products to no bar and no differentiation could very easily result in consumer confusion. Just as consumers have a right to know if a carton is skimmed milk or whole milk by a quick glance at a very prominent label, they have a right to know if they are buying cheese or an imitation cheese food.

Thank you for your time, Mr. Chairman.

Unproofed

HOUSE BILL NO. _____

By Committee on Agriculture and Small Business

AN ACT enacting the agricultural production input lien law.

Be it enacted by the Legislature of the State of Kansas:

Section 1. This act shall be known and may be cited as the agricultural production input lien act.

Sec. 2. As used in this act:

(a) "Agricultural chemical" means fertilizers, agricultural chemicals, or lime that are applied to crops or to land that is used for raising crops, and to include fertilizer material, plant amendments, plant food, soil amendment, pesticide and plant regulator.

(b) "Agricultural production input" means crop production inputs and livestock production inputs.

(c) "Crop production input" means agricultural chemicals, seeds, petroleum products, custom application of agricultural chemicals and seeds and labor furnished in planting, cultivating, growing, producing, harvesting, drying and storing crops or crop products.

(d) "Feed" means commercial feeds, feed ingredients, mineral feeds, drugs, animal health products, supplements, customer-formula feeds or other products, including grain, that are used for feeding livestock.

(e) "Lender" means a person in the business of lending money identified in a lien notification statement.

(f) "Letter of commitment" means a binding, irrevocable and unconditional agreement by a lender to honor drafts or other demands for payment upon the supplier presenting invoices signed by the purchaser or other proof of delivery.

(g) "Livestock production input" means feed and labor furnished in raising livestock, but shall not include feed or

*2/20/25**Attachment D*

labor for which the statutory lien created by K.S.A. 58-207 and amendments thereto relating to confinement feeding of livestock may apply, which shall remain subject to that statute.

(h) "Person" means an individual or an organization as defined in paragraph (30) of K.S.A. 84-1-201.

(i) "Petroleum product" means motor fuels and special fuels that are used in the production and drying of crops and production of livestock, including motor-vehicle fuels, special fuels and liquified petroleum gas, as defined in subsection (e) of K.S.A. 79-3401, subsection (a) of K.S.A. 79-3474 and subsection (b) of K.S.A. 79-3490, respectively, and amendments to these statutes and other petroleum products such as alcohol fuels, propane, lubes and oils.

(j) "Proceeds" means proceeds as defined in K.S.A. 84-9-306 and amendments thereto except that if rights or duties are contingent upon express language in a financing statement, the requisite language may exist in a lien-notification statement under section 3, and includes farm products, inventory, warehouse receipts and documents of title as defined in the uniform commercial code.

(k) "Seed" means agricultural seeds that are used to produce crops.

(l) "Supplier" means a person who furnishes agricultural production inputs.

Sec. 3. A supplier may notify a lender of an agricultural production input lien by providing a lien-notification statement to the lender in an envelope marked "IMPORTANT-LEGAL NOTICE". Delivery of the notice shall be made by certified mail or another verifiable method.

(b) The lien-notification statement must be in a form approved by the secretary of state and disclose the following:

- (1) The name and business address of any lender;
- (2) the name and address of the supplier claiming the lien;
- (3) a description and the date or anticipated date or dates of the transaction and the retail cost, management costs or

anticipated costs of the agricultural production input;

(4) the name, residential address and signature of the person to whom the agricultural production input was or is to be furnished;

(5) the name and residential address of the owner and a description of the real estate where the crops to which the lien attaches are growing or are to be grown or for a lien attaching to livestock, a description of the livestock and the location where the livestock will be or are being raised or fed; and

(6) a statement whether the products and proceeds of the crops or livestock are covered by the agricultural input lien.

(c) Within five business days after receiving a lien-notification statement, the lender must respond to the supplier with either:

(1) A letter of commitment for part or all of the amount in the lien-notification statement; or

(2) a written refusal to issue a letter of commitment.

(d) (1) If a lender responds with a letter of commitment for part or all of the amount in the lien-notification statement, the supplier may not obtain a lien for the amount stated in the letter of credit.

(2) If a lender responds with a refusal to provide a letter of credit, the rights of the lender and the supplier are not affected.

(e) If a lender does not respond to the supplier within five business days after receiving the lien-notification statement, an agricultural production input lien for the input stated in the lien-notification statement shall have priority over any security interest of the lender in the same crops or livestock and proceeds thereof, for the lesser of:

(1) The amount stated in the lien-notification statement;

(2) the unpaid retail cost of the agricultural production input identified in the lien-notification statement; or

(3) for livestock any limitation in subsection (b) of section 4.

(f) Subject to the limitation of subsection (d)(1), a perfected agricultural production input lien has priority over any and all other liens on the crops or livestock for which input is furnished.

(a) A supplier who furnishes crop production inputs has an agricultural input lien for the unpaid retail cost of the crop production inputs. The lien attaches to:

(1) The existing crops upon the land where a furnished agricultural chemical was applied or if crops are not planted, to the next production crop within 16 months following the last date on which agricultural chemical was applied;

(2) the crops produced from furnished seed; or

(3) the crops produced, harvested, or processed using a furnished petroleum product. If the crops are grown on leased land and the lease provides for payment in crops, the lien does not attach to the lessor's share of the crops. The lien continues in crop products and proceeds, except that the lien does not continue in grain after a cash sale.

(b) A supplier who furnishes livestock production inputs has an agricultural production input lien for the unpaid retail cost of the livestock production input. The lien attaches to all livestock consuming the feed and continues in livestock products and proceeds. A perfected agricultural production input lien that attaches to livestock may not exceed the amount, if any, that the sales price³ of the livestock exceeds the greater of the fair market value of the livestock at the time the lien attaches or the acquisitions price of the livestock.

(c) An agricultural input lien attaches when the agricultural production inputs are furnished by the supplier to the purchaser.

Sec. 4. (a) To perfect an agricultural production input lien, the lien must attach and the supplier entitled to the lien must file a lien-notification statement with the appropriate filing office under K.S.A. 84-9-401, and amendments thereto, within six months after the last date that the agricultural

production input was furnished.

(b) An agricultural production input lien that is not perfected shall be entitled to the same priority as an unperfected security interest as determined by K.S.A. 84-9-312.

(c) The filing officer shall enter on the lien-notification statement the time and date of filing and shall file and note the filing of a lien-notification statement under this section in the same manner provided by K.S.A. 84-9-402, and amendments thereto, for financing statement under the uniform commercial code.

Sec. 5. The holder of an agricultural production input lien may enforce the lien in the manner provided in K.S.A. 84-9-501 to 84-9-504, inclusive, and amendments thereto. In enforcing the lien under such statutes, the lienholder shall be considered the secured party and the person for whom the agricultural production input was furnished shall be considered the debtor, and each shall have the respective rights and duties of a secured party and a debtor under such statutes. If a right or duty under the statutes is contingent upon the existence or waiver of such right or duty by express language in a security agreement, the right or duty shall be deemed not to exist.

Sec. 6. After an agricultural input lien has been perfected, an action may be brought to enforce such lien in the district court of the county in which some part of the crop or livestock is located. A lien-notification statement may be amended, except the amount demanded, by leave of the court in the furtherance of justice. An agricultural production input lien is extinguished if an action to enforce the lien is not brought within 18 months after the lien-notification statement is filed.

Sec. 7. An agricultural input lien shall not attach to crops planted before December 1, 1984.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.