

Approved March 27, 1986  
Date

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 March 6, 1986 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:

Discussion and possible action on H.B. 2963-Requiring the testing and inspection of moisture measuring devices.

Representative Roenbaugh distributed amendments to H.B. 2963, Attachment 1.

Representative Roenbaugh moved that the Committee adopt the amendments. Representative Neufeld seconded the motion.

Representative Roenbaugh explained the amendments to the Committee.

A vote was taken on the motion and the motion passed.

Representative Neufeld moved and Representative Buehler seconded to report H.B. 2963, as amended, favorably for passage.

Representative Hamm explained the bill would be more regulating, that farmers could go to another elevator or perhaps purchase their own tester if they were concerned. He said the bill was not needed at this time.

Representative Roenbaugh expressed that it would be to the farmers advantage for the elevators to have accurate moisture meters.

Representative Rezac was concerned about testing procedures. He said farmers know whether grain is wet or dry.

Representative Apt made a substitute motion to table H.B. 2963. Representative Dean seconded the motion. The motion passed.

Representative Buehler moved to approve the minutes of February 27 and March 3, 1986. Representative Long seconded and the motion passed.

The Committee meeting was adjourned at 9:30 a.m.



## HOUSE BILL No. 2963

By Representatives Roenbaugh, Harper, Flottman, Freeman,  
Jenkins, Mollenkamp, Neufeld, Shore, Smith and Sughrue

2-12

0018 AN ACT concerning weights and measures; requiring the testing  
0019 and inspection of moisture measuring devices; providing for  
0020 the licensing of service companies; establishing violations  
0021 and prescribing penalties therefor.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. As used in this act:

0024 (a) "Moisture measuring device" means any instrument  
0025 which is used by any person for the purpose of ascertaining the  
0026 moisture content of grains offered for sale, processing or storage.

0027 (b) "Person" means any individual, partnership, association,  
0028 corporation or governmental agency.

0029 (c) "State sealer" means the state sealer of weights and mea-  
0030 sures.

0031 (d) "Place of business" means any location from which a  
0032 service company, or one or more representatives or employees  
0033 thereof, sells and performs services for the purpose of testing,  
0034 repairing, adjusting or calibrating moisture measuring devices.

0035 (e) "Service company" means a person licensed under this  
0036 act to test, repair, adjust or calibrate moisture measuring devices.

0037 (f) "Technical representative" means an individual who is  
0038 employed by a service company and who is responsible for the  
0039 proper repair, adjustment or calibration of moisture measuring  
0040 devices by the service company at a place of business.

0041 Sec. 2. (a) Each person desiring to operate and perform test-  
0042 ing and other services on moisture measuring devices as a  
0043 service company in Kansas shall apply to the state sealer for a  
0044 service company license, on a form to be supplied by the state  
0045 sealer, and shall obtain such license from the state sealer before

3-06-86 H. ASB  
Attachment I

0016 operating and performing testing or other services as a service  
0017 company. Each service company shall obtain a license for each  
0018 place of business maintained in Kansas and shall pay a license  
0019 application fee of \$50 and thereafter an annual license renewal  
0020 application fee of \$50 for each place of business. Each service  
0021 company license shall expire on June 30 following issuance and  
0022 shall not be transferable.

0023 (b) If any service company maintains any out-of-state places  
0024 of business which the company operates in serving Kansas pa-  
0025 trons, the applicant seeking to obtain or renew a license under  
0026 this section shall list in the application such places of business  
0027 and the firm names under which the company operates at each  
0028 such place of business. If any out-of-state place of business is  
0029 established by a service company after being licensed under this  
0030 section, the licensee shall supply such information to the state  
0031 sealer before any work is performed in Kansas from such out-of-  
0032 state location. Each nonresident service company shall designate  
0033 a resident agent upon whom service of notice or process may be  
0034 made to enforce the provisions of this act or any liabilities arising  
0035 from operations thereunder. Each nonresident service company  
0036 which maintains no established place of business in Kansas shall  
0037 obtain a license under this section for each out-of-state place of  
0038 business and shall list on the application the firm name or names  
0039 for each place of business from which the service company  
0040 intends to operate.

0041 (c) On and after March 1, 1987, each service company shall  
0042 have each of their technical representatives registered annually  
0043 by the state sealer. The technical representative shall be re-  
0044 quired to pass a reasonable examination prescribed by the state  
0045 sealer before being registered. On and after March 1, 1987, each  
0046 service company shall have at least one registered technical  
0047 representative in its employ at each licensed place of business.

0048 ~~[(d) No service company license may be issued or renewed~~  
0049 ~~under this section until the applicant's equipment has been~~  
0050 ~~tested for accuracy and sealed by the state sealer. The state~~  
0051 ~~sealer is authorized to accept a certification of the accuracy of the~~  
0052 ~~applicant's equipment issued by the national bureau of standards]~~

0084 ~~or by a weights and measures laboratory certified by the national~~  
 0085 ~~bureau of standards in lieu of a test by the state sealer, if such~~  
 0086 ~~certificate shows that the equipment has been tested within the~~  
 0087 ~~12 calendar months next preceding the license application.~~

0087 (c) The state sealer shall remit all moneys received under  
 0088 this section to the state treasurer at least monthly. Upon receipt  
 0089 of any such remittance, the state treasurer shall deposit the entire  
 0090 amount thereof in the state treasury and the same shall be  
 0091 credited to the weights and measures fee fund.

0092 Sec. 3. (a) The state board of agriculture with the recom-  
 0093 mendation of the state sealer may adopt, amend and revoke  
 0094 reasonable rules and regulations concerning:

- 0095 (1) Standards of workmanship for service companies;
- 0096 (2) requirements for contractual responsibilities and fulfill-  
 0097 ment of agreements by service companies;
- 0098 (3) furnishing of reports and information necessary for the  
 0099 state sealer to carry out the provisions of this act; and
- 0100 (4) other matters necessary for the administration of the pro-  
 0101 visions of this act;

0102 (b) For purposes of inspection, the state sealer or authorized  
 0103 representatives of the state sealer may enter upon private prem-  
 0104 ises with consent of the occupant.

0105 Sec. 4. (a) The owner or operator of a moisture measuring  
 0106 device which is used to ascertain the moisture content of grains  
 0107 offered for sale shall have the moisture measuring device tested  
 0108 and inspected at least annually for accuracy. The test shall be  
 0109 conducted by a registered technical representative employed by  
 0110 a licensed service company in accordance with rules and regu-  
 0111 lations adopted by the state sealer. ~~The moisture measuring~~  
 0112 ~~device used by the service company shall have been approved~~  
 0113 ~~and sealed by the state sealer within 12 calendar months pre-~~  
 0114 ~~ceding the date of the test.~~ The annual tests and inspections of  
 0115 each moisture measuring device shall be at the expense of the  
 0116 owner or operator of the moisture measuring device. Farmers or  
 0117 ranchers who own and operate moisture measuring devices used  
 0118 in private treaty transactions are exempt from the annual testing  
 0119 requirements.

Reason:

In testing moisture meters the equipment used may be elec-  
 tronic or mechanical, or both, in nature, and thus this  
 equipment may not be testable.

; and

(5) guidelines for inspection and testing as recom-  
 mended by the national bureau of standards.

during normal working hours

, processing or storage

Reason:

Service companies do not usually use moisture meters to  
 test field moisture meters.

0120 (b) A service company which conducts tests pursuant to this  
0121 section shall, at the time of testing and inspection, promptly  
0122 furnish to the owner or operator of the moisture measuring  
0123 device a report showing the results of the tests and inspection.

0124 Within five ~~calendar~~ days thereafter, the service company shall  
0125 furnish a copy of such report to the state sealer.

work

0126 (c) Subject to the provisions of K.S.A. 1985 Supp. 83-215 and  
0127 amendments thereto, the owner and operator of a moisture  
0128 measuring device which is found to be inaccurate at the time of  
0129 testing shall withdraw immediately the moisture measuring de-  
0130 vice from further use until the necessary corrections, adjust-  
0131 ments or repairs are made and the moisture measuring device is  
0132 determined to be accurate by a service company. Moisture mea-  
0133 suring devices which have been repaired or serviced shall meet  
0134 the tolerances and specifications adopted by the state sealer by  
0135 rule and regulation. The service company shall notify the state  
0136 sealer of any moisture measuring devices which are found not to  
0137 comply with such tolerances and specifications. A copy of the  
0138 report prepared by the service company showing the results of  
0139 the test and the work done to correct any deficiencies shall be  
0140 filed with the state sealer by the owner or operator of the  
0141 moisture measuring device within 15 days after the test and  
0142 inspection have been completed.

0143 Sec. 5. When the state sealer has been notified by a licensed  
0144 service company that a moisture measuring device does not  
0145 comply with tolerances and specifications adopted by the state  
0146 sealer, by rule and regulation, then the state sealer may test the  
0147 moisture measuring device for accuracy after repairs have been  
0148 made.

0149 Sec. 6. No person may falsify a test or determination of the  
0150 accuracy of a moisture measuring device tested under this act or  
0151 shall file with the state sealer a false report of any test of a  
0152 moisture measuring device under this act.

0153 Sec. 7. (a) At any time after a hearing held under section 8,  
0154 the state sealer may revoke, suspend, decline to renew or decline  
0155 to issue a service company license, when the service company:

0156 (1) Has refused to provide the state sealer with reasonably

*Permissive*

0157 complete and accurate information regarding methods used,  
 0158 materials used or work performed; or

0159 (2) has failed to comply with any provision or requirement of  
 0160 this act, or the Kansas weights and measures laws or any rule and  
 0161 regulation adopted thereunder.

0162 (b) On and after March 1, 1987, the state sealer shall suspend  
 0163 the license of any service company which does not have a  
 0164 registered technical representative at each licensed place of  
 0165 business. Suspension pursuant to this subsection shall not re-  
 0166 quire a hearing.

0167 Sec. 8. (a) Before any service company license may be re-  
 0168 voked, denied renewal, or suspended for any cause other than for  
 0169 failure to have a registered technical representative at each  
 0170 licensed place of business, the state sealer shall inform the  
 0171 licensee of a date and place of hearing upon a proposed revoca-  
 0172 tion, denial or suspension. The notice of hearing shall be sent to  
 0173 the licensee at least 15 days prior to the hearing date and shall be  
 0174 served upon the licensee by letter sent to the licensee's address  
 0175 as shown by the records of the state sealer and setting out the  
 0176 time and place of the hearing and the alleged grounds for  
 0177 revocation, denied renewal or suspension.

0178 (b) The licensee shall have the right to appear at the hearing  
 0179 in person and by counsel and to testify and introduce evidence.  
 0180 If the licensee fails to appear, the matter may be heard in the  
 0181 licensee's absence.

0182 (c) Any such hearing may be conducted by the state sealer or  
 0183 by a hearing officer duly appointed by the state sealer. The state  
 0184 sealer may appoint a hearing officer to make investigations and  
 0185 conduct hearings under this section. The state sealer and the  
 0186 hearing officer may administer oaths in the making of investiga-  
 0187 tions or conducting of hearings under this section and the state  
 0188 sealer may provide for a record to be made of any such hearing or  
 0189 investigation.

0190 (d) The hearing officer shall report findings and recommen-  
 0191 dations to the state sealer. The state sealer may consider the  
 0192 record made by the hearing officer and the state sealer may hear  
 0193 additional evidence and hold further hearings or make further

or

, or both in person and by counsel,

shall

0194 investigations, if the state sealer so desires. The decision and  
0195 order of the state sealer shall have the same force and effect as  
0196 though the entire hearing and investigation had been held be-  
0197 fore the state sealer. The decision and order shall become effec-  
0198 tive on the date set by the state sealer. Service of a copy of the  
0199 decision and order shall be made in the same manner as pro-  
0200 vided for notice of hearing.

0201 Sec. 9. It is unlawful for any person, other than the state  
0202 sealer or the state sealer's authorized representative, to: (a)  
0203 Operate or perform services as a service company without having  
0204 a valid service company license; or

0205 (b) adjust, calibrate or repair any moisture measuring device  
0206 [other than at the person's residence or at the person's established  
0207 place of business] without having a valid service company li-  
0208 cense.

0209 Sec. 10. Any person violating or failing to comply with any of  
0210 the provisions of this act or violating or failing to comply with  
0211 any authorized rule and regulation of the state sealer adopted  
0212 thereunder, shall be deemed guilty of a class A misdemeanor.  
0213 Each separate violation shall be a separate misdemeanor.

0214 Sec. 11. This act shall take effect and be in force from and  
0215 after January 1, 1987, and its publication in the statute book.

Reason:

If a moisture meter is moved to the service companies place of business no license will be required. Moisture meters can be moved quite readily. Will this meet the intent of the law?