

MINUTES OF THE House COMMITTEE ON Insurance

The meeting was called to order by Rep. Rex B. Hoy at
Chairperson

3:30 XX a.m./p.m. on January 30, 1986 in room 521-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Research Department
Melinda Hanson, Research Department
Gordon Self, Revisor of Statutes Office
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Tom Tunnell, Exec. Vice President of the Kansas Fertilizer and
Chemical Association
Jarold Boettcher, Vice President/General Manager, Boettcher
Enterprises, Inc.
Wayne Johnston, President, Blue Cross Blue Shield of Kansas

House Bill 2647 - An act concerning the Kansas pesticide law;
establishing bond and insurance requirements.

Gordon Self, Revisor's office, explained that the bill had come out of the Interim Study of Proposal No. 23 (Protection of Groundwater in Kansas) by the Special Committee on Energy and Natural Resources. It would increase from \$6,000 to \$50,000 the amount required of a bond of an applicant for a pesticide business license. It would also increase from \$5,000 to \$50,000 liability insurance limits. Both bond and insurance would have to provide coverage for property damage from environmental pollution and contamination.

Chairman Hoy introduced Tom Tunnell, Executive Vice President of the Kansas Fertilizer and Chemical Association. He was also representing several other fertilizer and chemical organizations. He stated that the position of the associations he represented would be to oppose the bill because they felt it would be impossible to comply with the provisions; pollution insurance is not readily available and is expected to become much more difficult to obtain. Many insurers are withdrawing from environmental coverage. (Attachment 1.)

The next conferee was Jarold Boettcher, Vice President and General Manager of Boettcher Enterprises, Inc., a fertilizer and chemical dealer of Beloit, Kansas. He expressed concern that the provisions contained in HB 2647 would increase the costs of doing business and threaten the existence of many small businesses in the State. (Attachment 2.)

The proponents of the bill have notified Chairman Hoy that they now do not wish to appear on its behalf, as they have become aware of the difficulty of obtaining the mandated coverage. Ray Rathert of the Insurance Department was asked to discuss reasons for the bill's initiation. Rep. King moved that the bill be reported adversely; Rep. Littlejohn seconded the motion. The motion carried.

HB 2740 - An act concerning the conversion of a nonprofit medical and hospital service corporation to a mutual life insurance company.

Gordon Self explained the bill's provisions.

Chairman Hoy introduced Wayne Johnston, President of Blue Cross Blue Shield of Kansas. Mr. Johnston stressed to the committee that this was permissive legislation only; it would represent a significant change in the structure of the organization, and the change would be

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made only if Congress rules to collect income tax from nonprofit service corporation in such a way as to make the change a wise decision.

Dick Brock of the Insurance Department was asked for the Department's position on the bill. They do not have any problem with the bill and could support it.

Questions on the bill were fielded by Mr. Brock, Mr. Johnston, and Mr. Bill Pitsenberger, legal counsel of Blue Cross Blue Shield.

The meeting was adjourned at 4:35 p.m. by the Chairman.

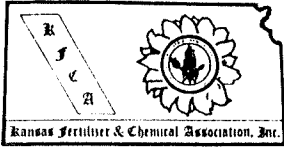
The next meeting of the committee will be held at 3:30 p.m. on February 3, 1986.

GUEST LIST

COMMITTEE: Insurance

DATE: 1-30-86

NAME	ADDRESS	COMPANY/ORGANIZATION
Maury Pantola	Topeka	Kansas Co-op Council
Tom Jinnell	Hutchinson	Kansas Fertilizer Chemical
John Blythe	Manhattan	Ks Farm Bureau
Kathy Peterson	Topeka	C#70
Janold Boettcher	Bellevue	—
John Doe	—	—
Dan Cunningham	Lawrence	AF. Dev. Bank
Joe Lieber	Topeka	Ks Co-op Council
Ray RATHBET	TOPEKA	KANS. INS. DEPT.
DICK BROCK	"	" " " "
James M. Buck	"	Maack Ins.
Richard Phillips	Hickerson	Grant Trust Service
Wayne Johnston	Topeka	BC-BS of Ks.
Jim Oliver	Topeka	PIA of Ks
JACK ROBERTS	"	BC-BS
William Pikenberger	"	"
Richard Harmon	"	Ks. Assn. Property/Casualty Cos.
Lorita Clapp	Topeka	United Way
Tom Bell	"	KHA
Carl Schmitthenner	Topeka	Kansas Dental Assn



KANSAS FERTILIZER AND CHEMICAL ASSOCIATION, INC.

Box 1392

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316-662-2598

STATEMENT OF THE
KANSAS FERTILIZER AND CHEMICAL ASSOCIATION
TO THE HOUSE INSURANCE COMMITTEE
REPRESENTATIVE REX HOY, CHAIRMAN
REGARDING HOUSE BILL 2647
JANUARY 30, 1986

Chairman Hoy and members of the House Insurance Committee, I am Tom R. Tunnell, Executive Vice President of the Kansas Fertilizer and Chemical Association. KFCA is a voluntary trade, professional and educational association, including over 400 members representing the state's agricultural chemical and fertilizer industry. We appreciate the opportunity to comment on House Bill 2647. I am also the Executive Vice President of the Kansas Grain and Feed Dealers Association, and the position of KFCA regarding this proposed legislation is supported by KGFDA. The Kansas Grain and Feed Dealers Association consists of approximately 900 member firms, representing the entire spectrum of the grain handling, storage and processing industry encompassing over 1,000 facilities in the state, a majority of which also handle fertilizer and chemicals. In addition, I am today also representing the Fertilizer Organization Council of the United States (FOCUS), which is the association of state and national fertilizer and chemical organizations--including other state associations such as KFCA and national associations such as the National Agricultural Chemical Association, The Fertilizer Institute,

and the National Fertilizer Solutions Association. I am currently serving as national chairman of FOCUS.

As you know, H.B. 2647 would increase the amounts of the liability insurance and bond required to obtain a pesticides business license and require environmental pollution and contamination liability insurance. The Associations I represent oppose H.B.2647, because we believe it would be impossible to comply with the provisions of the bill.

We are concerned that pollution liability insurance is increasingly difficult to acquire. In preparation for this hearing, I spoke two days ago and again today with Ted Kantor, District Manager of Grain Dealers Mutual Insurance Company of Omaha, Nebraska, a major writer of insurance for our members in Kansas. He stated that such insurance is almost impossible to obtain, and that as of December 1, 1985, his company's policy is very restrictive in that regard.

We have also written to other major insurance carriers about the availability of such coverage and are receiving similar responses from them. We will provide the committee with copies of those responses as we receive them.

The fertilizer and chemical industry is not concerned about raising the minimum levels required to those contained in this bill, but the coverage will simply not be available at any price. This is not a problem unique to Kansas, but is of national concern. The Fertilizer Organizations Council of the U.S. has attempted to organize a national insurance program to replace numerous statewide programs which have recently been canceled because their insurance carriers totally withdrew from the fertilizer and chemical agribusiness market. That effort has

not been successful. Under the present situation, insurance carriers are unwilling to provide environmental coverage and insurance generally is difficult and expensive for our members to acquire. Insurance costs have dramatically escalated in the past several months. This situation is also not unique to agribusiness, as I'm sure you are aware. The cover story of the current U.S. News and World Report discusses the problems of liability insurance.

Obtaining bonds is also increasingly difficult. A higher bond level requirement will mean greater difficulty and a much higher cost for the applicant to acquire the bond.

These problems have been rapidly growing over the past several months, and the situation has deteriorated considerably since the Interim Environment and Natural Resources Committee offered the legislation. We would encourage any proponent of H.B. 2647 to research the current insurance climate for our industry as we have done.

We appreciate the intent of the Interim Committee in proposing this bill. As an industry, we are committed to the protection of our invaluable groundwater resources. A major purpose of KFCA is to provide educational seminars and publications for our members and others on the safe use and handling of agricultural chemicals, in order to protect groundwater. We want to support legislation that will help to safeguard our state's groundwater.

But because we believe it would be impossible to comply with H.B. 2647, we must oppose its enactment. We also do not feel that it would provide any meaningful additional assurances of groundwater protection.

I have with me today a member of the KFCA Board of Directors, Jerry Boettcher, from Beloit, Kansas, who will explain the difficulty he recently experienced in acquiring insurance when his previous carrier left the market. Mr. Boettcher's firm is one of the largest in the state, so please bear in mind that most dealers would not have the resources he has in negotiating coverage.

I would be happy to respond to any questions you may have at this time or following Mr. Boettcher's testimony.

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 GLASCO, KANSAS

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 SCANDIA, KANSAS
 STOCKTON, KANSAS
 SYLVAN GROVE, KANSAS
 WAYNE, KANSAS
 WOODSTON, KANSAS
 CHESTER, NEBRASKA
 SUPERIOR, NEBRASKA

Boettcher Enterprises, Inc.

HAROLD J. BOETTCHER, PRES.

116 WEST COURT STREET

BELOIT, KANSAS 67420

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January 30, 1986

Testimony before the House Insurance Committee, concerning House Bill 2647, by Jarold W. Boettcher, Boettcher Enterprises, Inc., Beloit, Kansas.

My name is Jarold Boettcher. I am Vice President and General Manager of Boettcher Enterprises, Inc., located in Beloit, Kansas. Our Company is a fertilizer and agricultural chemical dealer operating in North Central Kansas and Southern Nebraska. We have over 30 retail outlets and serve about 4000 farmer-customers.

I am here today to express our concern over the provisions contained within House Bill 2647 and to urge your negative consideration of this bill.

House Bill 2647 would substantially increase the costs of doing business and potentially threaten the very existence of many small business operators in the State of Kansas. This bill would raise the requirements for obtaining a pesticide business license through (a) requiring a bond of \$50,000 or (b) providing a certificate of insurance for property damage liability including property damage resulting from environmental pollution and contamination. It is this latter phrase which is being inserted into the law by this bill that causes a problem. The reality of the current environment is that such insurance coverage is almost unavailable. The dealer would have to either post a bond or obtain insurance which he might not be able to obtain. Catch - 22. A bond could likely be purchased at a higher cost than currently but any of the members of this committee who are involved in a business know that operating only with a bond and without liability insurance is economically

Attachment 2
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unwise and extremely risky. The purpose of insurance is to provide protection, both to the person damaged and to the person responsible for the damage -- protection economically from the kind of catastrophic incident that can cause permanent damage and loss.

Our Company recently went through the process of obtaining new insurance coverage. We do have the kind of coverage which would be required under House Bill 2647 but our insurance company has told us that while we have pollution liability coverage for 1986, we should not count on such coverage continuing in 1987. Availability of such pollution insurance is extremely limited - we found one company willing to write the business. Moreover, we consider ourselves fortunate in that we are considered a relatively good risk. First, we are fairly large and diversified both geographically and with respect to product; second, our historical claims experience has been relatively good. The single outlet dealer or one with two or three outlets might not find himself in the same situation. To the contrary, because of his size or experience, he would not be considered as good business for the insurance company in the current environment.

Another factor for you to consider is that the insurance companies are dictating the terms of doing business. For many years, we have self-insured our vehicles and buildings. We are fairly large and have had good experience. Such a decision simply made good sense. The insurance companies apparently agree. All-risk or blanket policies are among the most popular. Essentially liability insurance of the sort required under H.B. 2647 is available only with all risks being covered. In effect, in order to obtain pollution liability insurance, we are being forced to buy coverage we neither want or need elsewhere.

My purpose in being here today was to try and make the Committee aware of current operating conditions in businesses which would be directly affected by the proposed legislation in H.B. 2647. I thank you for the opportunity to make these comments and would welcome any questions you might have.