

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at  
Chairperson

10:10 a.m. ~~XXX~~ on March 4, 1986 in room 423-S of the Capitol.

All members were present ~~except~~.

Committee staff present: Raney Gilliland, Legislative Research Department  
Arden Ensley, Revisor of Statutes  
Fred Carman (excused)

Conferees appearing before the committee: Harland Priddle, State Board of Agriculture  
Francis Kastner, Kansas Food Dealers Association  
Kenneth Schafermeyer, Kansas Pharmacists Assoc.  
Dale Lambley, State Board of Agriculture  
Chris Wilson, Kansas Fertilizer and Chemical Association  
Dr. Allan Kimmell, Livestock Commissioner,  
Animal Health Department  
Mike Beam, Kansas Livestock Association

Senator Allen called the Committee to order. The Chairman announced that by request there would be no hearing on SB 703 at this meeting. The Chairman called the Committees' attention to SB 687 and called on Harland Priddle for comments about the bill.

Mr. Priddle explained that registration should be required for restricted use pesticides only and not for general use pesticides. He expressed the concern that if there needed to be changes made that changes should be made in the pesticide law.

The Chairman called on Francis Kastner to testify.

Ms. Kastner gave copies of her testimony and a copy of amendments in balloon form and explanation of the amendments to the Committee (attachment 1). Ms. Kastner requested the Committee recommend passage of SB 687 with the suggested amendments and that it be effective when published in the Kansas Register.

In answer to Committee questions Ms. Kastner said the dealers she represents want to be licensed if they are selling restricted pesticides but dealers selling only general use pesticides have not appreciated the way they have been approached and requested to fill out license forms and pay the license fee and especially when the intent of the original legislation was not to include dealers selling general use pesticides. Ms. Kastner said she personally felt the breakdown of misunderstanding regarding this issue happened in the State Board of Agriculture. Ms. Kastner said she met with the State Board of Agriculture the day before and went over the suggested amendments with them.

The Chairman thanked Ms. Kastner and called on Kenneth Schafermeyer to testify.

Mr. Schafermeyer gave copies of his testimony to the Committee (attachment 2). Mr. Schafermeyer expressed support for registration of dealers who sell restricted use pesticides but not for those who sell general use pesticides. He requested Committee support for SB 687 and the suggested amendments and passage of SB 687 with the amendments.

The Chairman thanked Mr. Schafermeyer and called on Dale Lambley to testify.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,  
room 423-S, Statehouse, at 10:10 a.m./~~XX~~ on March 4, 1986

Mr. Lambley handed copies of his testimony to the Committee (attachment 3). Mr. Lambley reported that the State Board of Agriculture had asked for help from the County Extension Departments and Weed Departments to help with the registering of pesticide dealers. This help was requested to make it easier for pesticide dealers to register and pay their fees. Mr. Lambley stated that when a dealer registers he lists the kinds of pesticides he sells. Then when EPA puts out a stop-sale, the State Board of Agriculture can determine who sells that particular pesticide and can quickly notify them of the stop-sale order. Mr. Lambley said the reason that general use pesticide dealers are now involved with registering is because of the labeling on some general use pesticides that list them for use indoors and also outdoors. Mr. Lambley stated the legislation last session, in part, clarified the law so that a person could pick up and deliver restricted pesticide to a person who is registered to have that kind of pesticide without themselves breaking the law which is punishable by a fine of \$1200 or \$1500 for each penalty.

The Chairman thanked Mr. Lambley and called on Chris Wilson to testify.

Ms. Wilson gave copies of her testimony to the Committee (attachment 4). Ms. Wilson expressed opposition for SB 687.

The Chairman declared the hearing closed on SB 687 and called on Dr. Allan Kimmell to testify on SB 697.

Dr. Kimmell gave copies of his testimony to the Committee (attachment 5). Dr. Kimmell encouraged passage of SB 697 which, if passed, will allow the Animal Health Department to increase their fee when brand inspection is requested and provided up to 50¢ per head. He stated the present fee of 25¢ per head does pay for the cost of the service.

Dr. Kimmell, in answer to a Committee question, stated that if the bill passes they will increase the fee to 30¢.

The Chairman thanked Dr. Kimmell and called on Mike Bean to testify.

Mr. Beam gave copies of his testimony to the Committee members (attachment 6). Mr. Beam expressed support of the Kansas Livestock Association for SB 697.

The Chairman thanked Mr. Beam and declared the hearing closed on SB 697. The Chairman then adjourned the Committee at 11:00 a.m.





# Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205

PHONE: (913) 384-3838

March 4, 1986

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FRANCES KASTNER

## SENATE AGRICULTURE COMM.

EXECUTIVE DIRECTOR  
JIM SHEEHAN  
Shawnee Mission

RE: SB 687

I am Frances Kastner Director of Governmental Affairs for the Kansas Food Dealers Association. Our membership includes wholesalers, distributors and retailers of food products throughout the State.

Although we were aware of changes being made in the pesticide laws during the 1985 legislative session, in SB 331, we did NOT consider this to be a concern of the majority of our membership.

By way of background I must tell you that the definitions of SB 331 (which are the same in SB 687) under Section 1 (f) "Equipment"; (h) "General Use pesticide"; and (q) "Restricted use pesticide" kept us from considering grocery stores as "Pesticide dealers", as defined in (o).

While being deliberated by the House Committee, we were asked if we had any problems with SB 331. I replied we did not IF SB 331 does NOT include our members who SELL only "general use" pesticide products in their grocery stores.

To make it even more clear that the legislative intent was to NOT include general use pesticides for household use only, the phrase found on page 4 of SB 687 (which is now stricken out) was ADDED by the House Agriculture Committee and CONCURRED with by the Senate during the 1985 session which passed SB 331. It went into effect July 1, 1985.

Estimates given to this Committee in 1985 was that about 9000 retailers would be affected by the registration as PESTICIDE DEALERS for an ANNUAL FEE of \$15, or about \$135,000 being collected NOW for 1985, and ANOTHER \$135,000 for 1986 BEFORE June 30.

3/4/86 Sen. Ag.  
Attachment 1

During the summer of 1985 Administrative Rules and Regulations were promulgated by the State Board of Agriculture to define the words "household use" since SB 331 did not include it in the definitions.

The KFDA did NOT go to any of the hearings before the Administrative Rules and Regulations Committee for either the Temporary or Permanent Regulations, nor the Public Hearing on the Regs October 12, 1985 since we DID NOT and DO NOT consider ourselves pesticide dealers.

Right after January 1, 1986, the phone at our Office in Shawnee Mission rang constantly as our members were being asked to pay the \$15 registration fee for "pesticide dealers". THAT was the first we had been informed that the State Board of Agriculture, through administrative interpretation, determined grocery stores to be considered pesticide dealers, even if they sold only general use pesticide products used for household purposes.

Needless to say, Senator Allen, and Repr. Polson were contacted and we were assured that BOTH the House and Senate Agriculture Committee had NO INTENTION of making pesticide dealers out of grocery stores UNLESS they HANDLE RESTRICTED USE PESTICIDES. We are in COMPLETE AGREEMENT WITH THAT -- and have repeatedly told our members that IF INDEED they want to handle products that are "restricted use" pesticides, then expect to REGISTER and come under ALL the laws and regulations of bonafide pesticide dealers.

In order to CLEAR UP the bill passed last session, the Board of Agriculture drafted SB 687 as it was introduced 2-24-86.

Section 1 (o) in SB 687 now says that "pesticide dealer" means any person who sells a restricted use pesticide to another person for application.

The definition of that section will INCLUDE about 10% of our members, as estimated by the Board of Agriculture yesterday. We have NO PROBLEM with that definition in SB 687 (o) on lines 0091 and 0092.

In several other areas of section 2 the words "restricted use" have been amended into the bill. (Sec. 2 in SB 687 was the NEW SECTION in SB 331 of 1985 and which precipitated the definition of "household use" by Rules and Regulations rather than by Statute.

So, the phrase on lines 0129 and 0130 which legislators THOUGHT made it clear that those selling general use pesticides for household use in "any pressurized hand size household apparatus" as defined in (f) in fact put us under the registration program as set out by the Board of Agriculture IF we sold anything EXCEPT products used INSIDE the house (and not those that said "House and Garden" etc.)

Several meetings were held with department administrators at the Board of Agriculture during the last several weeks and they know of the complaints we have had from grocers who say they have someone come in and tell them if they sell products like "Black Flag" and "Raid" that says for house and YARD or GARDEN USE, and they want to continue to sell that product they must pay a \$15 fee for 1985 NOW and that by JUNE 30, 1986 they will need to pay another \$15 for the 1986 fee.

## EXPLANATION OF AMENDMENTS REQUESTED

I have attached hereto a copy of amendments that the Kansas Food Dealers Association is asking you to ADOPT, and to recommend SB 687 for passage.

First: We have been told there are TWO KINDS of pesticides and IF A PESTICIDE DOES NOT HAVE ON THE LABEL "RESTRICTED USE" THEN IT IS INDEED A "GENERAL USE" PESTICIDE

The Amendment we ask for would delete (h) lines 0064 thru 0066 and use instead: (h) "General use pesticide" shall mean and include all pesticides which are not labeled restricted use pesticides."

We believe this makes it absolutely clear that there are TWO kinds of pesticides-- restricted use and general use, and sets the definition out in the Statutes rather than permitting designation of general use pesticides by the secretary of the Board of agriculture.

Second: To make the definition in (q) "restricted use pesticide" agree with what we have been told, we ask that lines 0105 thru 0107 be deleted and replaced with: (q) "restricted use pesticide" shall mean and include all pesticides so labeled."

This leaves no doubt about the TWO classifications of pesticides and simple definitions set forth by statute rather than designation by rules and regulations of the secretary of the Board of Agriculture.

Third: On the same page, lines 0118 again refers only to a pesticide dealer and we believe it needs to specify AGAIN that ONLY THOSE WHO SELL RESTRICTED USE PESTICIDES (as defined in (o) lines 0091 thru 0092) shall be required to register.

To do this we ask that the first sentence in (a) reads: "Each person who sells restricted use pesticide products shall register with the state board of agriculture."

Fourth: IF the legislative intent was to make it clear in lines 0129 thru 0130 that selling general use pesticides for household use only, would not come under the registration of pesticide dealers, and we had THIS MUCH CONFUSION, we believe that phrase should be PUT BACK INTO SB 687 for DEFINITE legislative intent.

FIFTH: WE STRONGLY URGE YOU TO MAKE SB 687 BECOME EFFECTIVE UPON PUBLICATION IN THE KANSAS REGISTER IN ORDER TO KEEP ALL THE GROCERY STORES AND OTHER RETAILERS WHOM YOU DID NOT INTENDED TO LICENSE FOR \$15 ANNUALLY FROM HAVING TO PAY THAT FEE AGAIN BEFORE JUNE 30, 1986 TO BE IN COMPLIANCE WITH SB 331 PASSED IN 1985.

I appreciate the opportunity of appearing before you today to hear our concerns and ask your adoption of the amendments to SB 687.

SB 687 3-4-86

Requested Amendments  
(Pages 2 - 3 and 4)

0046 pests on property owned or rented by such person and such  
 0047 property is used as such person's residence.  
 0048 (d) "Defoliant" means any substance or mixture of sub-  
 0049 stances intended to cause the leaves or foliage to drop from a  
 0050 plant, with or without causing abscission.  
 0051 (e) "Desiccant" means any substance or mixture of sub-  
 0052 stances intended for artificially accelerating the drying of plant  
 0053 tissue.  
 0054 (f) "Equipment" means any ground, water or aerial appa-  
 0055 ratus, used to apply any pesticide but shall not include any  
 0056 pressurized hand size household apparatus used to apply any  
 0057 pesticide or any equipment, apparatus or contrivance of which  
 0058 the person who is applying the pesticide is the source of power  
 0059 or energy in making such pesticide application.  
 0060 (g) "Fungus" means any nonchlorophyll-bearing thallo-  
 0061 phyte, including, but not limited to, rust, smut, mildew, mold,  
 0062 yeast and bacteria, except those on or in man or other animals  
 0063 and those on or in processed food, beverages or pharmaceuticals.  
 0064 (h) ~~"General use pesticide" shall mean and include all pes-~~  
 0065 ~~ticides which have not been designated, by rule or regulation of~~  
 0066 ~~the secretary or the board, as being restricted use pesticides.~~ →  
 0067 (i) "Insect" means any small invertebrate animal having the  
 0068 body segmented, belonging to the class insecta and other classes  
 0069 of arthropods, including, but not limited to, beetles, bugs, bees,  
 0070 flies, spiders, mites, ticks and centipedes.  
 0071 (j) "Nematode" means any unsegmented roundworms of the  
 0072 class nematoda, with elongated, fusiform, or saclike bodies cov-  
 0073 ered with cuticle, inhabiting soil, water, plants or plant parts.  
 0074 Such roundworms may also be referred to as nemas or eelworms.  
 0075 (k) "Person" means any individual, partnership, association  
 0076 of persons, corporation or governmental agency.  
 0077 (l) "Pest" means, but is not limited to, any insect, rodent,  
 0078 nematode, fungus, weed or any other form of terrestrial or  
 0079 aquatic plant or animal life or virus, bacteria or other microorga-  
 0080 nism, except viruses, bacteria or other microorganisms on or in  
 0081 man or other animals, or which the secretary may declare to be a  
 0082 pest.

delete current section (h) lines 0064 thru 0066 and insert:

(h) "General use pesticide" shall mean and include all pesticides which are not labeled restricted use pesticides.

JAMES G. SHEEHAN, EXECUTIVE DIRECTOR  
2809 WEST 47th STREET • SHAWNEE MISSION, KANSAS 66205  
PHONE (913) 384-3838

*Kansas Food Dealers' Association, Inc.*



0083 (m) "Pesticide" means, but is not limited to, (1) any sub-  
0084 stance or mixture of substances used to prevent, destroy, control,  
0085 repel, attract or mitigate any pest and (2) any substance or  
0086 mixture of substances intended to be used as a plant regulator,  
0087 defoliant or desiccant.

0088 (n) "Pesticide business" means any individual, partnership,  
0089 association of persons or corporation which applies pesticides to  
0090 the property of another for compensation.

0091 (o) "Pesticide dealer" means any person who sells a re-  
0092 stricted use pesticide to another person for application.

0093 (p) "Plant regulator" means any substance or mixture of  
0094 substances intended through physiological action, to accelerate  
0095 or retard the rate of growth or maturation, or to otherwise alter  
0096 the behavior of plants but shall not include substances insofar as  
0097 they are used as plant nutrients, trace elements, nutritional  
0098 chemicals, plant inoculants or soil amendments. The term "plant  
0099 regulator" shall not include any such nutrient mixtures or soil  
1100 amendments as are commonly known as vitamin-hormone horti-  
0101 cultural products, intended for improvement, maintenance, sur-  
0102 vival, health and propagation of plants, and not for pest destruc-  
0103 tion if such mixtures or soil amendments, in the undiluted  
0104 packaged concentration are nontoxic and nonpoisonous.

0105 ~~(q) "Restricted use pesticide" shall mean and include all~~  
0106 ~~pesticide uses designated as such by rules and regulations of the~~  
0107 ~~secretary or the board.~~

0108 (r) "Secretary" means the secretary of the state board of  
0109 agriculture.

0110 (s) "Under the supervision of" means, unless otherwise pro-  
0111 vided by the labeling of the pesticide product, acting under the  
0112 instructions and control of another person who is available if and  
0113 when needed, even though such other person is not physically  
0114 present at the time and place the act is done.

0115 (t) "Weed" means any plant or part thereof which grows  
0116 where not wanted.

0117 Sec. 2. K.S.A. 1985 Supp. 2-2469 is hereby amended to read  
0118 as follows: 2-2469. (a) Each person who is a pesticide dealer shall  
0119 register with the state board of agriculture. Registration shall be

delete current section (q) lines 0105  
thru 0107 and insert:

(q) "Restricted use pesticide" shall mean  
and include all pesticides so labeled.

delete in line 0118 the phrase: "is a  
pesticide dealer" and insert after the word "who"  
in line 0118:

sells restricted use pesticide  
products

Sec 2 (a) would then read as follows:

"Each person who sells restricted use  
pesticide products shall register with the state  
board of agriculture.

*James G. Sheehan*  
*Food Dealers' Association, Inc.*

JAMES G. SHEEHAN, EXECUTIVE DIRECTOR  
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0120 required for each business location distributing *restricted use*  
0121 pesticides and shall be on a form provided by the secretary. Each  
0122 registration shall expire on June 30 following issuance unless  
0123 such registration is renewed annually. A registration fee of \$15  
0124 shall accompany the application.

0125 (b) The provisions of this section shall not apply to a licensed  
0126 pesticide business which sells *restricted use* pesticides only as  
0127 an integral part of such business' pesticide application service  
0128 when the *restricted use* pesticides are dispensed only through  
0129 equipment used for this pesticide application, ~~nor to the sale of~~  
0130 ~~general use pesticides purchased for household use only~~, nor to  
0131 any federal, state, county or municipal agency which provides  
0132 *restricted use* pesticides only for its own programs nor to any  
0133 individual who is the final purchaser of a *restricted use* pesticide  
0134 for application to property or property rights owned, leased, or  
0135 otherwise acquired by such person.

0136 (c) Each registered pesticide dealer is responsible for the  
0137 acts of each individual employed by such dealer in the solicita-  
0138 tion and sale of pesticides and all claims and recommendations  
0139 for use of pesticides. The dealer's registration shall be subject to  
0140 denial, suspension, or revocation after a hearing for any violation  
0141 of this act whether committed by the dealer or by the dealer's  
0142 officers, agents or employees.

0143 (d) All fees received under this section shall be remitted to  
0144 the state treasurer in accordance with K.S.A. 2-2464a and  
0145 amendments thereto. Upon receipt of each such remittance, the  
0146 state treasurer shall deposit the entire amount thereof in the state  
0147 treasury and such amount shall be credited to the pesticide use  
0148 fee fund.

0149 Sec. 3. K.S.A. 1985 Supp. 2-2438a and 2-2469 are hereby  
0150 repealed.

0151 Sec. 4. This act shall take effect and be in force from and  
0152 after its publication in the ~~statute book.~~

On lines 0129, and 0130, between the comma after application on line 1029, and before the comma on line 0130 before the word "nor" reinsert the stricken language so lines 1029 thru 0130 would read:

→ "equipment used for this pesticide application, nor to the sale of general use pesticides purchased for household use only,

delete on line 0152 the words "statute book" and insert: Kansas Register.

Sec 4 would then read as follows:

"This act shall take effect and be in force from and after its publication in the Kansas Register.

JAMES G. SHEEHAN, EXECUTIVE DIRECTOR  
2809 WEST 47th STREET • SHAWNEE MISSION, KANSAS 66205  
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*Bill Kansas Food Dealers' Association, Inc.*



THE KANSAS PHARMACISTS ASSOCIATION

1308 WEST 10TH

PHONE (913) 232-0439

TOPEKA, KANSAS 66604

KENNETH W. SCHAFERMEYER, M.S., CAE

PHARMACIST

EXECUTIVE DIRECTOR

STATEMENT TO THE SENATE AGRICULTURAL COMMITTEE

MARCH 4, 1986

SUBJECT: SB 687 REGARDING REGISTRATION OF PESTICIDE DEALERS

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

MY NAME IS KEN SCHAFERMEYER AND I AM EXECUTIVE DIRECTOR OF THE KANSAS PHARMACISTS ASSOCIATION--AN ORGANIZATION REPRESENTING APPROXIMATELY 1,000 PRACTICING PHARMACISTS IN THE STATE OF KANSAS. I APPRECIATE THE OPPORTUNITY TO ADDRESS YOU ON SENATE BILL 687 REGARDING THE REGISTRATION OF PESTICIDE DEALERS.

THE KANSAS PHARMACISTS ASSOCIATION SUPPORTS THIS BILL.

THE PROBLEM:

THE KANSAS PESTICIDE LAW WAS AMENDED DURING THE LAST LEGISLATIVE SESSION TO REQUIRE MOST RETAIL PESTICIDE DEALERS TO REGISTER WITH THE KANSAS STATE BOARD OF AGRICULTURE ON AN ANNUAL BASIS. THE REGISTRATION FEE IS \$15.

THIS LAW PERTAINS TO THE SALE OF FLEA COLLARS, INSECT REPELLENTS, RAT AND MICE BAITS, FUNGICIDES FOR MOLD CONTROL, LAWN WEED KILLERS, HERBICIDES AND INSECTICIDES. BUSINESSES SELLING ANY OF THESE PRODUCTS MUST BE REGISTERED WITH THE STATE BOARD OF AGRICULTURE OR THEY ARE SUBJECT TO A CLASS A MISDEMEANOR.

MANY PHARMACIES SELL FLEA AND TICK COLLARS AND INSECT REPELLENTS. UNFORTUNATELY, VERY FEW PHARMACIES WERE AWARE OF THE REGISTRATION



AFFILIATED WITH  
THE AMERICAN PHARMACEUTICAL ASSOCIATION

*attachment 2*  
*3-04-86 Sen. Ag.*

REQUIREMENTS AND REGISTRATION FEES. THE BOARD OF AGRICULTURAL HAS NOT ENFORCED THIS ACT, AT LEAST IN REGARD TO MOST OF OUR MEMBERS.

IT IS OUR UNDERSTANDING THAT THE PURPOSE OF THE KANSAS PESTICIDE LAW WAS TO PROTECT INDIVIDUALS AND THE ENVIRONMENT FROM THE MISUSE OF DANGEROUS CHEMICALS. IT IS UNLIKELY, HOWEVER, THAT A FLEA COLLAR WILL HAVE ANY ADVERSE ENVIRONMENTAL EFFECTS. WE DO AGREE, HOWEVER, THAT THOSE PRODUCTS WHICH DO HAVE A LIKELIHOOD OF HARMING AN INDIVIDUAL OR THE ENVIRONMENT SHOULD BE CAREFULLY CONTROLLED. THE LAW SHOULD APPLY ONLY TO "RESTRICTED USE PESTICIDES" AND NOT TO "GENERAL USE PESTICIDES."

THE SOLUTION:

THE KANSAS PHARMACISTS ASSOCIATION SUPPORTS SENATE BILL 687 WHICH REQUIRES THE REGISTRATION OF DEALERS WHO SELL "RESTRICTED USE PESTICIDES." BUSINESSES THAT SELL "GENERAL USE PESTICIDES" WILL NOT HAVE TO BE REGISTERED. THIS MEASURE IS SPECIFIC AND GETS TO THE ACTUAL PROBLEM WHILE ELIMINATING ANY UNNECESSARY BURDEN ON MANY OF THE CITIZENS OF THIS STATE. WE RESPECTFULLY REQUEST YOUR SUPPORT OF SENATE BILL 687. THANK YOU.

115  
20 PM  
3-4

T E S T I M O N Y

Senate Bill 687

PRESENTED TO

SENATE COMMITTEE ON AGRICULTURE

by

Dale Lambley, Director  
Kansas State Board of Agriculture  
Division of Plant Health

March 4, 1986

attachment 3  
3-4-86 Sen. Ag.

During the 1985 Session of the Legislature, legislation was passed amending the Kansas Pesticide Law to require registration of the majority of persons performing retail sales of pesticides. Final or end users and retailers of general use pesticides purchased for household use only were exempted from registration. This amendment was made to provide state primacy versus Federal Environmental Protection Agency primacy in the pesticide sales area in order to alleviate two primary problems:

1. To allow retail dealers to sell or deliver restricted use pesticides to uncertified persons for delivery and use by certified applicators. Numerous Kansas pesticide dealers, particularly in the agricultural areas, had been subjected to substantial EPA civil penalties for allowing wives, sons, hired hands, and others to pick up restricted use pesticides for delivery to certified farmers.
2. To allow development of a listing of pesticide dealers and creation of an information system whereby retail businesses could be informed of pesticide cancellations, suspensions, stop-sale notices, and changes in classification (general use to restricted use). Retailers could then take action to bring their pesticide sales into compliance with federal law which would prevent their being subjected to civil fines just as the dealers of restricted use pesticide had been.

In total, the bill was designed as a well-balanced attempt to enforce the law while providing protection to the many retailers selling pesticides within the state.

Senate Bill 687 would exclude from registration all retail pesticide dealers not selling restricted use pesticides. Effects of this change requiring registration only of restricted use pesticide dealers would still

allow delivery of restricted use pesticides to uncertified persons (which addresses problem 1, above), but would strip protection from non-registered retailers and leave them unprotected from federal-levied penalties resulting from the Environmental Protection Agency's changes in classification of pesticides, cancellations, and suspensions (problem 2, above). Unless addressed, this situation will become a reality to the retailers in our state due to the State's or anyone else's inability to notify non-registered dealers of these changes.

As an example of dealers needing to know the status of chemicals they deal in, a recent report from Food Chemical News, Inc. of Washington, D. C. states that in 1987 the Environmental Protection Agency "expects to conduct 330 reviews of new chemicals and biochemical/microbial agents, 4,650 reviews of old chemicals, 10,000 amended registration reviews, and 300 new use reviews. This is essentially the same level of reviews expected in 1986." As stated earlier, the products being reviewed are not those already restricted, but those classified as general use.

For these reasons, the Kansas State Board of Agriculture believes that the current law best serves the needs of the State's retail community. The amendments made by this particular bill (Senate Bill 687) drops a portion of the protection offered to these retailers. We are highly concerned that these persons will unknowingly violate the law and be subjected to substantial federal fines.

10/10/00  
10/10/00  
10/10/00  
10/10/00  
10/10/00

PESTICIDES DEFINED

(in part)

1. RUP - A pesticide, when applied in accordance with directions warnings, cautions, and uses for which registered; may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator, shall be classified RUP (restricted use pesticide).
  
2. General Use - Determination that it will not generally cause unreasonable effects on the environment.



Kansas State Board of Agriculture  
Plant Health Division

PESTICIDE DEALER REGISTRATION

Policy #1. Delineation of Household Products Definition

The following products shall be considered as household pesticides:

1. Products labeled for direct applications to the human body (i.e. insect and mite repellants, lice control products);
2. Products labeled for direct application to domestic pets (i.e. flea and tick collars, dusts, shampoos);
3. Ready-to-use general use products which are applied undiluted and are for domestic use (i.e. disinfectants, pressurized "Raid" and similar products, cleansers, swimming pool chemicals, mothballs, fish (aquarium) and bird pest pesticides, indoor plant insecticides, fungicides and miticides) also, diluted cleansers, disinfectants, and deodorizers for household use (examples: Pinesol, Lysol cleaner, Clorox);
4. Rat and mouse baits designed for domestic use;
5. Products having the terminology "For Household Use."

Products labeled "for sale to and use by commercial applicators"; "for industrial use"; "not for retail sale"; "for commercial use"; and similar terminology such as "commercial pesticide"; "service products"; etc., including commercial disinfectants and cleaners such as those retailed by janitorial suppliers for use in hospitals, schools, nursing homes, and similar institutions shall not be considered as "household use" products.



# KANSAS FERTILIZER AND CHEMICAL ASSOCIATION, INC.

Box 1392

Hutchinson, Kansas 67504-1392

316-662-2598

STATEMENT OF THE KANSAS FERTILIZER AND CHEMICAL ASSOCIATION  
TO THE SENATE AGRICULTURE COMMITTEE  
SENATOR JIM ALLEN, CHAIRMAN  
REGARDING S.B. 687  
MARCH 4, 1986

Mr. Chairman and members of the Committee, I am Chris Wilson, Director of Governmental Relations of the Kansas Fertilizer and Chemical Association, a voluntary trade, professional and educational association, whose members are retail dealers, handlers, and manufacturers of agricultural fertilizers and chemicals. We oppose S.B. 687, because it negates most of the benefits of the Pesticide Dealer Registration Act passed by this Legislature last year, now contained in statute as K.S.A. 1985 Supp. 2-2438a and 2-2469. S.B. 687 would exempt from registration many retailers now selling restricted use pesticides unknowingly or pesticides which may become restricted. By registering, those retailers would be informed by the State Board of Agriculture about which pesticides have been designated restricted use. KFCA believes this is important information for all pesticide retailers, and that it is important for the Board of Agriculture to know who such retailers are and to be able to inform them. We believe that the process of complying with the law as it is presently written and the payment of a \$15.00 license fee are minimal requirements, well worth the benefits.

The Pesticide Dealer Registration Act also established the necessary provisions to allow for state primacy over federal EPA regulation in this area. We are concerned that passage of S.B. 687 might also endanger Kansas' state primacy designation.

Thank you for the opportunity to address S.B. 687. I will attempt to respond to any questions you may have.

*attachment 4*  
*3-4-86 Sen. Ag.*

*1015 copy*

A. T. KIMMELL, DVM  
LIVESTOCK COMMISSIONER

STATE OF KANSAS



DAVID A. BREINE,  
CHAIRMAN, ANIMAL HEALTH BOARD

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ANIMAL HEALTH DEPARTMENT  
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M E M O R A N D U M

TO: Gary Stotts, Acting Director of Budget  
FROM: Dr. Allan Kimmell, Livestock Commissioner  
DATE: February 27, 1986  
SUBJECT: SB697

- 1) Proposed legislation allows the Livestock Commissioner to increase the fee collected when brand inspection is requested and provided.
- 2) N/A
- 3) This desired change would allow the brand division of the Animal Health Department to match service costs with expenses being incurred.
- 4 & 5) This legislation would have no impact on the staffing nor increase operating expenditures. It will allow increases to be made as it becomes apparent that the operating expenses are greater than the fee now being collected.
- 5) The long range fiscal effect must include being able to provide the service of brand inspection as it may be requested or is now being provided. The 4 counties and 15 livestock markets should realize that if livestock numbers increase and expenses do not, then conceivably, per head fees could be reduced.

*attachment 5*  
*3-4-86 Sen. Ag.*

BRAND FEES FROM OTHER STATES

- Arizona-----Registration fee - \$75.00 for 5 years  
 Inspection fee - 25¢ per head plus \$3.00 service charge per call  
 Mandatory beef checkoff - \$1.00-over 30 days of age
  
- California----Registration fee - \$50.00 for 2 years  
 Inspection fee - 55¢ per head-at ranch inspection (change of owner)  
 55¢ per head-pasture to pasture  
 30¢ per head at market  
 20¢ per head into feedlot  
 \$1.00 - hide inspection  
 Mandatory beef checkoff - \$1.00
  
- Colorado-----Registration fee - \$25.00 plus \$13.00 per year - 5 years  
 Inspection fee - 20¢ per head  
 \$3.00 service charge if not at market  
 Mandatory beef checkoff starting 7/1/86 - \$1.00
  
- Idaho-----Registration fee - \$25.00 for 5 years  
 Inspection fee - 48¢ per head-cattle  
 \$1.50 per head-horses; \$3.00 season; \$10.00 lifetime  
 15¢ per head-disease control (mandatory)  
 2¢ per head predator control (mandatory)  
 Mandatory beef checkoff - 50¢
  
- Louisiana-----Registration fee - \$10.00 for 5 years  
 Inspection fee - No fee. All expenses come out of general fund.  
 (runs about \$1.00 per head)  
 Voluntary beef checkoff - 50¢ per head
  
- Montana-----Registration fee - \$35.00 for 10 years  
 Inspection fee - 35¢ at market and all country inspections  
 20¢ per mile traveled  
 \$3.00 per head for horses
  
- Nebraska-----Registration fee - \$25.00 for 4 years  
 Inspection fee - 50¢ per head  
 Mandatory beef checkoff - 25¢
  
- Nevada-----Registration fee - \$40.00 for 4 years  
 Inspection fee - 60¢ per head-cattle  
 \$3.00 per head-horses  
 24¢ per mile traveled
  
- New Mexico----Registration fee - \$50.00 for 3 years  
 Inspection fee - 30¢-cattle  
 25¢-hides  
 10¢-sheep  
 35¢-horses (permanent inspection on horses-\$5 to \$10)  
 \$2.00 per sheet service charge  
 Mandatory beef checkoff - 25¢

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North Dakota---Registration fee - \$10.00 for 10 years  
Inspection fee - 50¢ per head  
20¢ per mile  
Mandatory beef checkoff - 50¢

Oregon-----Registration fee - \$35.00 for 2 years  
Inspection fee - 70¢ per head (minimum-\$3.50)  
70¢ per hide (minimum-\$3.50)  
\$50.00 minimum charge per market per day. (Market  
operator collects from sellers to make up  
minimum)  
In case where inspector must go to check cattle after  
they are shipped the charge is \$20.00 per hour plus  
20¢ per mile - otherwise no mileage charge.  
\$2.00 per head for horses; \$5.00 per head per year;  
\$20.00 per head for lifetime.  
Mandatory beef checkoff - 50¢

South Dakota---Registration fee - \$15.00 plus \$5.00 per year - 5 years  
Inspection fee - 35¢ per head  
20¢ per mile

Texas-----Registered by county, not statewide  
Registration fee - \$5.00 for 10 years  
Inspection fee - 25¢ per head at markets

Utah-----Registration fee - \$25.00 for 5 years  
Inspection fee - \$2.50 flat fee up to 7 head  
35¢ per head over 7 head  
22¢ per mile if special trip has to be made-such as  
not checked prior to shipment.  
Mandatory beef checkoff - \$1.00

Washington-----Registration fee - \$25.00 for 2 years  
Inspection fee - 45¢ per head-cattle  
\$1.00 per head-horses  
\$2.50 minimum charge  
13¢ per mile plus \$12.50 per hour if out of inspector's  
district  
Mandatory Beef checkoff - 50¢

Wyoming-----Registration fee - \$30.00 for 10 years  
Inspection fee - 30¢ per head  
Mandatory beef checkoff - 25¢

BRAND INSPECTION

ATWOOD SALE BARN

COLBY LIVESTOCK COMMISSION, INC.

HAYS LIVESTOCK MARKET CENTER, INC.

HILL CITY LIVESTOCK COMMISSION CO., INC.

HOXIE LIVESTOCK SALE

NORTON LIVESTOCK AUCTION, INC.

OAKLEY LIVESTOCK COMMISSION CO., INC.

OBERLIN LIVESTOCK AUCTION, INC.

PHILLIPSBURG LIVESTOCK, INC.

QUINTER LIVESTOCK COMMISSION

RANCH FRANCIS L/S MKT CENTER

ROOKS CO. LIVESTOCK COMMISSION CO.

RUSH COUNTY LIVESTOCK SALES, INC.

RUSSELL LIVESTOCK COMM. CO., INC.

WAKEENEY LIVESTOCK COMM. CO., INC.

COUNTY OPTION BRAND INSPECTION AREAS

Hamilton County

Wichita County

Kearny County

Greeley County

47-417a. Brand inspection; fees; disposition; livestock brand fee fund. (a)The livestock commissioner may, when brand inspectors or examiners are available, provide brand inspection. When brand inspection is requested and provided, the livestock commissioner shall charge and collect from the person making the request, a brand inspection fee of not to exceed ~~\$.25~~ \$.50 per head on cattle and \$.03 per head on sheep and other livestock. No inspection charge shall be made or collected at any licensed livestock market where brand inspection is otherwise available.

(b) The livestock commissioner shall remit all moneys received under the statutes contained in article 4 of chapter 47 of the Kansas Statutes Annotated and amendments thereto, except K.S.A.47-434 to 47-445, inclusive, and amendments thereto, to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the livestock brand fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the livestock commissioner or by a person or persons designated by the commissioner.

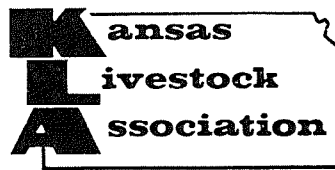
47-437. Brand inspection; fees; collection; rules and regulations; increase or reduction in amount of fees; disposition of fees; county option brand fee fund. (a)The livestock commissioner shall charge and collect a fee of not to exceed ~~\$.25~~ \$.50 per head on all cattle and not to exceed \$.03 per head on all sheep inspected in brand inspection areas of the state. The livestock commissioner may, when brand inspectors are available, provide brand inspection in other areas where brand inspection is requested and the commissioner shall charge and collect inspection fees in the same manner as prescribed for the collection of such fees in brand inspection areas. The owner or seller of cattle or sheep inspected shall be responsible for the payment of the inspection fees and such fees shall be collected in such manner as the livestock commissioner shall prescribe or authorize by rule or regulation.

(b) Whenever the livestock commissioner shall determine that the fees collected pursuant to the provisions of this section are yielding more than is required for the purposes for which such fees were collected, the commissioner may reduce such fees for such period as the commissioner shall deem justified.



In the event the livestock commissioner, after reducing such fees, finds that sufficient revenues are not being produced by the reduced fees to properly administer and enforce this act and acts of which this section is amendatory or supplemental, the commissioner may increase such fees to such rate as will, in the commissioner's judgment, produce sufficient revenue for the purposes provided in this section, but not exceeding ~~\$.25~~ \$.50 per head on cattle and not to exceed \$.03 per head on sheep.

(c) The livestock commissioner shall remit all moneys received under K.S.A.47-434 to 47-445, inclusive, and amendments thereto to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the county option brand fee fund, except any amounts received for brand inspection services of livestock outside of a county option area. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the livestock commissioner or by a person or persons designated by the commissioner. All amounts received for inspection of livestock outside of a county option area shall be deposited to the credit of the livestock brand fee fund.



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Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

TESTIMONY ON BEHALF  
OF THE  
KANSAS LIVESTOCK ASSOCIATION  
IN SUPPORT OF  
SB 697 - FEES FOR INSPECTION OF ANIMAL BRANDS  
BEFORE THE  
SENATE AGRICULTURAL COMMITTEE  
SEN. JIM ALLEN, CHAIRMAN  
SUBMITTED BY  
MIKE BEAM  
EXECUTIVE SECRETARY, COW-CALF/STOCKER DIVISION  
MARCH 4, 1986

The Kansas Livestock Association (KLA) is a trade organization made up of approximately 9,000 members located in all of the 105 counties in Kansas. KLA, founded in 1894, has members who are actively involved in numerous aspects of livestock production and include cow-calf/stocker producers, feeders, sheep producers, swine operators and general farming and ranching enterprises. On February 25, 1986, the KLA Board of Directors voted to support SB 697 which would allow the livestock commissioner to collect a fee up to 50¢ per head on cattle which are brand inspected.

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Currently brand inspection is conducted in 15 Kansas auction markets and four counties which are designated as " brand inspection areas".

BRAND INSPECTION AREAS

Greeley, Hamilton, Kearney and Wichita counties are the four counties which have been designated as brand inspection areas. KSA 47-435 specifies that the board of county commissioners may designate their county as a brand inspection area if a petition, signed by not least than 51% of resident cattle owners, is filed and requesting that a county be declared a brand inspection area. Likewise, the county commissioners may adopt the resolution declaring that the county is no longer a brand inspection area if a petition with the same majority of cattle owners is filed with the

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county commissioners. Cattle owners in brand inspected areas (counties) must operate under certain restrictions when cattle are to be moved within and out of the designated county. KSA 47-441 states that it is unlawful for any person in a brand inspection area, including the owner of the cattle to move, drive, ship or transport in any manner any cattle from any point in a brand inspection area to any point outside such area other than another brand inspection area. The exception would be if the cattle have first been inspected for brands by the State Brand Commissioner or proper authorities or the cattle are accompanied with a brand inspection certificate. The brand commissioner or proper authorities may give permission for the movement of cattle without inspection when there is no change of ownership; the cattle are shipped to a market where Kansas brand inspection is maintained; or no inspection shall be required when the cattle are being moved from a license feedlot.

KSA 47-442 says that it is unlawful for any person in a brand inspection area to move cattle within such area unless the cattle have been first inspected for brands by the brand commissioner or the proper authorities. Exceptions would include when cattle are moved to a market where Kansas brand inspection is maintained; when cattle are moved from a licensed feedlot except when such cattle are moved to a feedlot, the cattle should be inspected at the time they enter the feedlot. Any person who purchases cattle in a brand inspection area without receiving a bill of sale and brand inspection certificate would be deemed as counselling, aiding and abetting the seller in the unlawful sale of livestock.

#### INSPECTION AT AUCTION MARKETS

Upon an auction market operators request the livestock commissioner must supply a brand inspector to their market for the purpose of inspecting brands on all cattle consigned to their market. To date the following 15 Kansas auction markets participate in the brand inspection program. (a list is attached)

The cattle industry is no different of most segments of agriculture and has faced their share of low prices and tough economic times. Because of this situation we have seen a significant decline in the number of cattle in Kansas and nationwide. The number of cattle that move through auction markets has also declined over 17% in the last three years.

Number of Cattle Inspection	Year (FY - fiscal year)
509,895	1982
438,224	1983
472,328	1984
420,000	1985
430,000*	1986

\*estimated cattle numbers for FY 1986

Not all cattle owners wish to pay the price for brand inspection on their cattle which are marketed. Producers who market cattle in the 15 auction markets listed above and reside in the four brand inspection counties have chosen to continue this brand inspection program. Since the

number of cattle marketed and revenues are declining it appears the only choice for adequate funding of the brand inspection program is to allow an increase in the brand inspection fee. KLA supports SB 697 which would give the livestock commissioner the statutory authority to increase this fee up to 50¢ per head. It is our understanding that the Kansas Animal Health Department, if this bill passes, will choose to raise this fee to 30¢ per head on January 1, 1987.

Although KLA traditionally has worked towards minimizing production costs for livestock producers, we feel that it is necessary to give the Animal Health Department the flexibility of increasing or decreasing this inspection fee as maybe needed. If the cost becomes too expensive, livestock producers will most likely choose to submit a petition and discontinue county brand inspection and or auction market operators will discontinue the brand inspection program. Again we support SB 697 and I would be happy to respond to any questions or concerns that this committee may have on this issue. Thank you.

15 KANSAS AUCTIONS

Atwood Sale Barn

Colby Livestock Commission, Inc.

Hays Livestock Market Center, Inc.

Hill City Livestock Commission Company, Inc.

Hoxie Livestock Sale

Norton Livestock Auction, Inc.

Oakley Livestock Commission Co., Inc.

Oberlin Livestock Auction, Inc.

Phillipsburg Livestock, Inc.

Plainville Livestock Co., Inc.

Quinter Livestock Commission Co.

Rush County Livestock Sales, Inc.

Russell Livestock Commission Co., Inc.

Ranch-Francis Livestock Market Center

Wakeeney Livestock Commission, Inc.